
BUSINESS RESCUE PLAN

Prepared in terms of Section 150 of the Companies Act, No. 71 of 2008

in respect of

MINTAILS MINING SA PROPRIETARY LIMITED

(Registration No. 2007/004029/07)

and

MINTAILS GOLD SA PROPRIETARY LIMITED

(Registration No. 2007/003948/07)

and

MINTAILS SA RANDFONTEIN CLUSTER PROPRIETARY LIMITED

(Registration No. 2010/018708/07)

Prepared by

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13th December 2016

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INTRODUCTION

1. Definitions and interpretation

1.1. In this Business Rescue Plan, unless the context indicates otherwise, the words and expressions below shall have the following meanings (and cognate expressions shall bear corresponding meanings):

1.1.1. "**Act**" means the Companies Act, No. 71 of 2008, as amended;

1.1.2. "**Adoption Date**" for a Company means the date upon which the Business Rescue Plan is approved and adopted in respect of that Company in accordance with the Act;

1.1.3. "**Affected Persons**" shall bear the meaning ascribed thereto in Section 128(1)(a) of the Act, and in relation to the Companies, shall mean the shareholders, creditors, registered trade unions and employees of the Companies (where not represented by any trade union);

1.1.4. "**Auditor**" means BDO South Africa Incorporated, being the Companies' auditor;

1.1.5. "**BEE**" means black economic empowerment as contemplated in the codes of good practice and the Broad-Based Black Economic Empowerment Act No. 53 of 2003;

1.1.6. "**BRP**" means David Arthur Charles Lake, Identity Number 580704 5324 186, who has been appointed as the business rescue practitioner for each of the Companies;

1.1.7. "**Business Day**" shall bear the meaning given to that term in Section 1 of the Act;

- 1.1.8. "**Business Rescue Costs**" means the costs of the business rescue proceedings, including the BRP's remuneration and expenses, and other claims arising out of the costs of the business rescue Proceedings as contemplated in Section 135(3) of the Act;
- 1.1.9. "**Business Rescue Plan**" means this document together with all of its Schedules, comprising the combined business rescue plans for MMSA, MGSA and MSARC, prepared and published by the BRP in accordance with the Act for consideration and possible approval by the respective Creditor bodies of each of three Companies;
- 1.1.10. "**CIPC**" means the Companies and Intellectual Property Commission;
- 1.1.11. "**Claims**" means secured, preferent and/or concurrent claims, as envisaged in the Insolvency Act, against the Companies, of whatsoever nature and from whatsoever cause, including all claims arising out of any agreements entered into by the Companies, the cause of action in respect of which arose prior to or on the Commencement Date and which are known to the Companies and accepted by the BRP;
- 1.1.12. "**CMD**" means Cream Magenta 171 Proprietary Limited, a private limited liability company incorporated in South Africa under registration number 2004/035659/07, currently in business rescue proceedings;
- 1.1.13. "**CMDCs**" means the business rescue trade creditors of CMD who were collectively owed c.R127 million by CMD at the time that CMD entered into business rescue proceedings in December 2014;
- 1.1.14. "**CMDC Offer**" means the offer made to CMD and the CMDCs as contemplated in clause 39;
- 1.1.15. "**Commencement Date**" means the date on which the business rescue Proceedings of the Companies commenced in accordance with the Act, being 14th October 2015;

- 1.1.16. "**Company**" (individually) and "**Companies**" (collectively) means the three companies that are in business rescue under the supervision of the BRP, these being MMSA, MGSA and MSARC;
- 1.1.17. "**Concurrent Creditors**" means all Creditors having Claims which would qualify as concurrent claims as envisaged in the Insolvency Act and the Act;
- 1.1.18. "**Creditors**" means all persons having a Claim against the Companies as at the Commencement Date and for the period of the business rescue Proceedings, excluding any Claim that can be regarded as Post-Commencement Finance or as being Business Rescue Costs, and which Claim is known to the Companies and has been accepted by the BRP;
- 1.1.19. "**DMR**" means the State Department of Mineral resources;
- 1.1.20. "**Financially Distressed**" shall bear the meaning ascribed thereto in Section 128(1)(f) of the Act;
- 1.1.21. "**Insolvency Act**" means the Insolvency Act, No. 24 of 1936, as amended
- 1.1.22. "**MGSA**" means Mintails Gold SA Proprietary Limited, a private limited liability company incorporated in South Africa under registration number 2007/003948/07;
- 1.1.23. "**Mintails Group**" means MMSA and all of its subsidiaries as illustrated in clause 9;
- 1.1.24. "**MLI**" means Mintails Limited, a public company incorporated in Australia under registration number ABN – 45 008 740 672, listed on the Australian Securities Exchange, and currently in administration;

- 1.1.25. "**MMSA**" means Mintails Mining SA Proprietary Limited, a private limited liability company incorporated in South Africa under registration number 2007/004029/07;
- 1.1.26. "**Moolman**" means Johan Moolman who was appointed as Chief Executive Officer of MMSA by the BRP during September 2016;
- 1.1.27. "**MSA**" means Mintails SA Proprietary Limited, a private limited liability company incorporated in South Africa under registration number 2004/007547/07;
- 1.1.28. "**MSARC**" means Mintails SA Randfontein Cluster Proprietary Limited, a private limited liability company incorporated in South Africa under registration number 2010/018708/07;
- 1.1.29. "**Paige**" means Paige Limited, a company registered in the Marshall Islands and currently the majority creditor of MLI, and/or its successor-in-title;
- 1.1.30. "**Post-Commencement Finance**" means post-commencement finance as contemplated in Section 135 of the Act;
- 1.1.31. "**Preferent Creditors**" means those Creditors holding Claims which would qualify as preferential claims as envisaged in terms of the Insolvency Act;
- 1.1.32. "**Proceedings**" means the business rescue proceedings of the Companies;
- 1.1.33. "**Publication Date**" means the date on which this Business Rescue Plan is published in terms the Act, being 21st October for MMSA and MGSA and 13th December 2016 for MSARC;
- 1.1.34. "**Rand**" or "**R**" means the lawful currency of South Africa;

- 1.1.35. **"S.151 Meeting"** means a meeting convened in terms of Section 151 of the Act, presided over by the BRP, attended by Creditors and any other Affected Persons, and called for the purpose of considering the Business Rescue Plan;
 - 1.1.36. **"SARS"** means the South African Revenue Services;
 - 1.1.37. **"Secured Creditors"** means those Creditors holding Claims which would qualify as secured claims as envisaged in terms of the Insolvency Act;
 - 1.1.38. **"Substantial Implementation"** means the fulfilment of the conditions set out in clause 53 to the satisfaction of the BRP;
 - 1.1.39. **"Termination Date"** means the date on which the business rescue Proceedings of a Company will end in accordance with clause 54 and at which date the Company in question will no longer be in business rescue;
 - 1.1.40. **"VAT"** means value added tax which is levied in respect of goods and services in terms of the Value Added Tax Act, 1991.
- 1.2. Where any term is defined within the context of any particular clause or Schedule in this Business Rescue Plan, the term so defined, unless it is clear from the clause or Schedule in question that the term so defined has limited application to the relevant clause or Schedule, shall bear the meaning ascribed to it for all purposes in terms of this Business Rescue Plan, notwithstanding that the term may not have been defined in this definitions clause.
- 1.3. This Business Rescue Plan shall be interpreted in accordance with the following principles:
- 1.3.1. a reference to a *"person"* includes a reference to an individual, partnership, company, close corporation, other body corporate, a trust, an unincorporated association or a joint venture and that person's legal representatives, successors and permitted assigns;

- 1.3.2. the words "*hereof*", "*herein*", and "*hereto*" and other words of similar import refer to this Business Rescue Plan as a whole and not to any particular part, clause, sub-section or other sub-division or Schedule unless the context or subject matter so requires;
- 1.3.3. a reference to a "*clause*" or a "*Schedule*", unless the context indicates otherwise, are references to the designated clause or Schedule of this Business Rescue Plan;
- 1.3.4. words importing the masculine shall include a reference to the feminine and *vice versa*;
- 1.3.5. words importing the singular shall include a reference to the plural and *vice versa*;
- 1.3.6. reference to a document or agreement includes any amendment or supplement to, or replacement or novation of that document or agreement;
- 1.3.7. any reference to legislation or a statute shall be a reference to such legislation or statute as at the Publication Date and as amended, varied, re-enacted or replaced from time to time;
- 1.3.8. the headings appearing in this Business Rescue Plan are for reference purposes only and shall not affect the interpretation hereof;
- 1.3.9. if any provision is a definition and is a substantive provision conferring rights or imposing obligations on any person, notwithstanding that it is only in the definitions clause (or such other clause), effect shall be given to it as if it were a substantive provision in the body of this Business Rescue Plan;
- 1.3.10. in the event that the day for performance of any obligation to be performed in terms of this Business Rescue Plan should fall on a day which is not a Business Day, the relevant day for performance shall be the immediately succeeding Business Day;

- 1.3.11. the use of any expression covering a process available under South African law (such as but not limited to a liquidation) shall, if any of the Affected Persons is subject to the law of any other jurisdiction, be interpreted in relation to that Affected Person as including any equivalent or analogous proceeding under the law of such other jurisdiction;
- 1.3.12. where any number of days is prescribed in this Business Rescue Plan, that number shall be determined by excluding the first day and including the last day, unless the last day falls on a day which is not a Business Day, in which case the last day shall be the immediately succeeding Business Day;
- 1.3.13. where any term (whether capitalised or not) is not expressly defined in this Business Rescue Plan but is defined in the Act, the definition in the Act shall prevail;
- 1.3.14. the use of the word "*including*" followed by specific examples shall not be construed as limiting the meaning of the general wording preceding it and the *eiusdem generis* rule shall not be applied in the interpretation of such general wording or such specific examples;
- 1.3.15. the words "*other*" and "*otherwise*" shall not be construed *eiusdem generis* with any preceding words if a wider construction is possible;
- 1.3.16. all monetary amounts are stated exclusive of VAT and in South African Rand, unless provided otherwise, where that amount is subject to VAT; and
- 1.3.17. the expiration or termination of this Business Rescue Plan shall not affect those provisions of this Business Rescue Plan which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.

2. Structure of this document

- 2.1. Each of the three Companies, being MMSA, MGSA and MSARC, is under its own legally separate business rescue Proceedings. Notwithstanding this, this document is a single integrated Business Rescue Plan comprised of the combined individual business rescue plans of each of the three Companies.
- 2.2. The Business Rescue Plan has been presented in this consolidated manner due to the integrated nature of the plan – the success of each of the Companies and its ability to deliver on its commitments as contemplated in this Business Rescue Plan is intertwined with the other Companies. Furthermore, there are certain intra-Group undertakings implicit in this Business Rescue Plan. For example, it is proposed that new funding will be secured by MMSA on behalf of all of all of the Companies, that MMSA shall discharge certain of the independent trade creditor Claims of the other Companies, that Mintails Group inter-company loan accounts are not immediately settled, etc.
- 2.3. Operationally the success or failure of each of the Companies' individual business rescue plans will, as will be evident, to a lesser or greater extent be inextricably linked to the success or failure of the business rescue plans for the other Companies.
- 2.4. Thus, even though the three groups of Creditors relating to MMSA, MGSA and MSARC will meet separately and vote only in respect of the business rescue plan directly relevant to them, the three business rescue plans have been presented herewith in one composite document in order that all three bodies of the Companies' Affected Persons may have full insight into the interrelated proposals and arrangements that comprise the Business Rescue Plan.
- 2.5. In accordance with the Act, this Business Rescue Plan has been divided into three parts as follows:

2.5.1. PART A - BACKGROUND

This part sets out the background to the Companies and the business rescue Proceedings. This includes, *inter alia*, information on the Companies, the circumstances of their Financial Distress, material assets held by the Companies, Claims against the Companies,

and other information relevant to the business rescue process and a clear interpretation of the Business Rescue Plan.

2.5.2. PART B - PROPOSALS

This part provides the terms of the Business Rescue Plan and includes, *inter alia*, proposed actions and reliefs, the benefits of adopting the Business Rescue Plan as opposed to the Companies being placed into liquidation, and the processes and steps required for the Business Rescue Plan to be implemented.

2.5.3. PART C – ASSUMPTIONS, CONDITIONS AND GENERAL

This part sets out, *inter alia*, what conditions need to be fulfilled in order for the Business Rescue Plan to become effective, the circumstances in which the Business Rescue proceedings will end, projected and actual financial information relating to the Companies, and general information on the law, process and Business Rescue Plan.

3. Approach taken in these business rescue Proceedings

- 3.1. The underlying objectives of business rescue in accordance with the Act are to restructure the affairs of a company in such a way that -
 - 3.1.1. it maximises the likelihood of the company continuing in existence on a solvent basis; or
 - 3.1.2. if it is not possible for the company to so continue in existence, results in a better return for the company's creditors or shareholders than would result from the immediate liquidation of the company.
- 3.2. Chapter 6 of the Act, in dealing with business rescue, seeks to facilitate the rehabilitation of Financially Distressed companies by providing for:
 - 3.2.1. a temporary moratorium on the rights of claimants (e.g. creditors) against the company;

- 3.2.2. the temporary supervision of the company by a business rescue practitioner;
and
 - 3.2.3. the “*rules of engagement*” for entry into, process during, and exit from business rescue proceedings, during which proceedings the business rescue practitioner is required to develop and implement (if approved), a business rescue plan to achieve the objectives set out in clause 3.1 above.
- 3.3. The BRP, in relation to the Business Rescue proceedings of the Companies, has in addition been guided by Section 7(k) of the Act, which states that the purpose of the Act in respect of Business Rescue is “*to provide for the efficient rescue and recovery of financially distressed companies, in a manner that balances the rights and interests of all relevant stakeholders*” [BRP’s emphasis].
- 3.4. The business rescue Proceedings of the Companies and this Business Rescue Plan have thus been conducted and structured by the BRP in a manner that seeks to achieve the following objectives:
- 3.4.1. to rescue the Companies by returning them to a state of solvency;
 - 3.4.2. to recognise and address the interests of Creditors by, *inter alia*, providing for a substantial settlement of their Claims in a manner that provides a significantly greater return than would be the case for such Creditors had the Companies been liquidated;
 - 3.4.3. to secure a sustainable future for the Companies after the implementation of the Business Rescue Plan - which will ultimately be to the benefit of all of the Companies’ stakeholders (including its employees, suppliers, customers, shareholders, regulators, communities and the State); and
 - 3.4.4. to maintain an appropriate balance between the respective rights and interests of the Companies’ stakeholders.

4. Actions to be taken by Affected Persons

- 4.1. If any Affected Person is in doubt as to what action should be taken by that person in respect of this Business Rescue Plan, such Affected Person is advised to consult with that person's attorney, accountant or other professional advisor as that person may deem appropriate.
- 4.2. Creditors of MSARC will be invited to vote on the approval, rejection or amendment of this Business Rescue Plan at the S.151 Meetings of the Creditor bodies to be convened by the BRP on 22nd December 2016, being within ten days of the Publication Date. It is noted that the Creditor bodies of both MMSA and MGSA approved and adopted the Business Rescue Plan at their respective S.151 Meetings held on 4th November 2016.

5. Business rescue Proceedings - key dates

- 5.1. The Companies' respective boards of directors passed resolutions to voluntarily enter business rescue proceedings on 12th October 2015 as per section 129(1) of the Act.
- 5.2. The Commencement Date for the business rescue proceedings of the Companies was 14th October 2015, being the date the appropriate documentation was filed with the CIPC as per section 129(2)(b) of the Act.
- 5.3. The BRP was appointed on 15th October 2015 as per section 129(3) of the Act.
- 5.4. The first meeting of employees was held on 28th October 2015 as per section 148 of the Act.
- 5.5. The first meeting of Creditors was held on 28th October 2015 as per section 147 of the Act.
- 5.6. On 28th October 2015 (in accordance with section 150(5)(b) of the Act) the BRP requested written approval from the Creditors for the extension of the period in which this Business Rescue Plan was to be published. The requisite majority of Creditors approved the extension. The BRP on several subsequent occasions requested written approval from

the Creditors for the further extension of the period in which this Business Rescue Plan was to be published, the latest being for a publication date on or before 30th November 2016. All such requests for extension were approved in writing by the requisite majorities.

5.7. This Business Rescue Plan for MSARC will be published on 21st November 2016 in accordance with section 150(5) of the Act. The Business Rescue plan for MMSA and MGSA was published on the 21st October 2016.

5.8. A meeting to consider the Business Rescue Plan and to determine the future of the Company was or will be held in accordance with section 151 of the Act:

5.8.1. for **MMSA** at 10:00 am on Friday 4th November 2016;

5.8.2. for **MGSA** at 2:00 pm on Friday 4th November 2016; and

5.8.3. for **MSARC** at 9:00 am on Thursday 22nd December 2016.

PART A – BACKGROUND

6. Background to the Mintails Group

- 6.1. The Mintails Group was founded and actively started operations on the Witwatersrand basin in 2006 when it procured Mogale Gold out of judicial management. Its original mining activity was the production of gold from the processing of gold bearing tailings.
- 6.2. MLI is an Australian Securities Exchange listed company which is in administration and which wholly owns MSA. As at the Commencement Date MSA was the 74% controlling shareholder of MMSA, the balance of 26% of the issued shares of MMSA being held by four BEE entities. MMSA holds 100% of the issued shares of each of the remaining subsidiary companies in the Mintails Group, including MGSA and MSARC (see clause 9 for an illustration of the group structure).
- 6.3. The Mintails Group today explores, mines, processes and toll treats “**hard rock**” gold bearing ores and gold bearing tailings on the West Rand in Gauteng. It owns certain hard rock gold bearing ore resources which it mines (underground and open cast) and processes for its own benefit, as well as certain above ground gold bearing tailings (dumps) which again it mines and processes for its own benefit. The Mintails Group also processes gold bearing ores on behalf of various customers on a toll treatment basis.

6.3.1. Mining

The Mintails Group has approximately 100 million tons of gold bearing tailings in dumps in reasonably close proximity to its processing plants near Krugersdorp, west of Johannesburg. The Mintails Group mines these dumps, currently only for processing through Gold Plant 1. Approximately 40,000 tons of tailings are currently mined and treated per month.

In 2012 the Mintails Group acquired the rights to mine its own hard rock gold bearing ores adjacent to its processing plants and tailings dumps. These resources are mined by the Mintails Group through both open pit (by CMD) and underground operations. Open pit mining currently produces approximately

25,000 to 30,000 tons per month of gold bearing ores, and underground operations approximately 1,300 tons per month. All mined ores are processed by the Mintails Group through Gold Plant 1.

In early 2015 MSARC ceded the rights to its open cast mining operations to the CMDCs as part of a business rescue plan proposal in respect of CMD. Under these arrangements CMD on behalf of the CMDCs currently mines these gold bearing ores and MGSA toll treats the ores on behalf of CMD/CMDCs. The Mintails Group has provided funding and other services to these operations.

6.3.2. Processing

The Mintails Group has two CIL gold extraction plants near Krugersdorp in the West Rand, adjacent to the tailings dumps and the hard rock gold resources noted above. **Gold Plant 1** is operational and has a capacity to process c.150,000 tons of ores per month. Gold Plant 1 has the capacity to process hard rock gold bearing ores (it has milling capacity of c.90,000 tons per month) and/or gold bearing tailings.

Gold Plant 2 is not operational and has been in care and maintenance for approximately 5 years. Gold Plant 2 does not have any milling capacity, and thus it is configured to treat gold bearing tailings only. When operational, Gold Plant 2 has the capacity to treat c.350,000 tons of tailings per month.

6.3.3. Toll processing

The Mintails Group processes hard rock gold bearing ores on behalf of various clients. All such ores are hard rock ores, require milling, and are processed through Gold Plant 1. The Mintails Group currently processes approximately 40,000 tons of ores per month on behalf of its tolling clients.

6.4. MMSA employs all of the Mintails Group head office and management staff, and acts as the banker and paymaster for the Mintails Group. MMSA has 39 direct employees who are primarily head office and management staff. In addition MMSA currently has 125 sub-contractors, primarily involved in mine security.

- 6.5. MGSA owns and operates the processing plants (Gold Plant 1 and Gold Plant 2) and other processing plant and equipment. MGSA is the employer of technical staff, plant operators, and those mineworkers who are directly employed by the Mintails Group. MGSA has 330 direct employees, and 166 sub-contractors, the latter primarily involved in open cast mining.
- 6.6. MSARC has legally acquired the mining rights to the hard rock gold bearing ore resources owned by the Mintails Group, although such acquisition is still subject to the approval of the DMR (Section 11 of the MPRDA) and is therefore not yet unconditional. The contingent rehabilitation liabilities relating to these mining rights legally rest with MSARC. As noted above, in early 2015 MSARC made available the rights to its open cast mining operations to the CMDs as part of the CMD business rescue plan proposal in respect of that company. MSARC currently has no employees but engages 59 sub-contractors.
- 6.7. Other – the Mintails Group through various group subsidiaries also:
- 6.7.1. owns various properties, some farmland (originally acquired as potential deposition sites) and some operational;
 - 6.7.2. owns prospecting rights over c.100,000 million tons of gold bearing tailings dumps in the “Soweto Cluster”;
 - 6.7.3. sells aggregates raw material to contractors operating on site at its Krugersdorp operations;
 - 6.7.4. engages 224 sub-contractors in its mining and processing operations through other Mintails Group subsidiaries.

7. Events leading to the business rescue Proceedings

- 7.1. In December 2014, CMD (a wholly-owned subsidiary of MMSA) voluntarily entered into business rescue proceedings and that company is currently in a business rescue work out plan. The BRP is not the business rescue practitioner of CMD.

- 7.2. The circumstances that, in the opinion of the BRP, have contributed materially to Financial Distress in which the Companies found themselves in late 2015 include:
- 7.2.1. alleged financial misappropriation by a former management team (no longer involved with the Mintails Group);
 - 7.2.2. the cessation of the operations of Gold Plant 2 (70% of the Mintails Group's processing capacity) due, inter alia, to alleged technical misjudgements in its construction and operation;
 - 7.2.3. an overhead structure designed for a c.500,000 tons per month mining/processing operation therefore effectively being supported by only the 150,000 tons per month Gold Plant 1 operation, a situation exacerbated by a costly listed and shareholder management structure relative to the remaining operations;
 - 7.2.4. the 2014 suspension of mining at MSARC due to local unrest, causing a temporary closure of hard rock mining, coupled with a subsequently delayed sequential lifting of the Section 93 restrictions to mining which prohibited the Companies from accessing the gold bearing resources, which in turn resulted in material losses for the Companies;
 - 7.2.5. poorly structured, mispriced and unprofitable tolling agreements and arrangements contributing to operational losses;
 - 7.2.6. unanticipated mining complications (exceptionally high strip ratios) encountered in the CMD business in 2015 resulting in MMSA unexpectedly cash funding the CMD's business rescue plan losses for an extensive period;
 - 7.2.7. a fractious regulatory relationship with the DMR arising, amongst other matters, from irregular compliance by the Mintails Group and in particular a lack of funding/provision for rehabilitation costs, ultimately manifesting in an environmental liability of c.R300 million in respect of the main mining areas, against which liability only c.R25 million had been provided as at the Commencement Date;

- 7.2.8. an international board of directors too far removed from the operational realities of a small gold mining and tailings processing operation in South Africa, leading to an apparent lack of strategic insight and flawed strategic planning;
- 7.2.9. a short term outlook by management caused by, *inter alia*, a lack of working capital and effectively “living hand to mouth”, exacerbated by numerous management team changes and, ultimately, a management team stretched beyond its capacity without the financial resources to recruit appropriate replacements for key vacancies which had been caused by departures;
- 7.2.10. a longstanding shareholder dispute which caused a split amongst board members, resulting in decision paralysis;
- 7.2.11. the disunity at shareholder and board level was compounded by disunity at management level;
- 7.2.12. a general lack of working capital, with any new capital raised being contributed by only one shareholder (MSA/MLI) – an issue compounded by a shareholder dispute (as reported in the press) – which resulted in the funding shareholder being unwilling or unable to fund the growing short-term cash flow crisis;
- 7.2.13. an inability by the Mintails Group to deal with the unexpected, an inevitability in mining, due the lack of working capital driven by all of the above;
- 7.2.14. financial obligations of the Companies accumulated, including a c.R537 million loan owing to the controlling shareholder, arrears of R27 million owing to toll clients, c.R60 million owing to trade creditors, a c.R20 million SARS liability, and the mostly unfunded R300 million rehabilitation liability noted above;
- 7.2.15. as at the Commencement Date, the gross assets and value of the Companies were not worth anything near as much as the aggregate amount of these liabilities;
- 7.2.16. the culmination of the Financial Distress was the “winter tariffs” charged by Eskom during 2015 which increased power consumption costs from

approximately R3 million per month to around R4.5 million per month. Contrary to previous practice of allowing for the increased costs from “winter tariffs” to be amortised over the succeeding months, Eskom, in August/September 2015, demanded the immediate payment of its c.R11.6 million of arrears, together with a proposed deposit of c.R8 million, threatening to turn off power supply to the Mintails Group if these demands were not immediately met in full;

7.2.17. a closedown of the operations of the Companies resulting from a power supply cut off would have been catastrophic for the Mintails Group and would likely have led to the liquidation of the Companies, the loss of all c.900 jobs and sub-contractors, major losses to creditors, and the R300 million environmental liabilities reverting to the State.

7.3. The boards of directors of the Companies at that time had no alternative other than to resolve that either the Companies voluntarily enter into business rescue proceedings or that they enter into liquidation proceedings. The boards of directors of the Companies therefore adopted resolutions on 12th October 2015 in terms of which, *inter alia*:

7.3.1. they confirmed their findings that Companies were Financially Distressed, noting that there appeared to be a reasonable prospect of rescuing the Companies as contemplated in the Act; and

7.3.2. the Companies would voluntarily commence business rescue proceedings with effect from the date of lodging of the resolutions with the CIPC, this effectively being 14th October 2015.

8. Trading and events since the Commencement of Proceedings

8.1. Not unusually, the commencement of business rescue was stressful and unsettling for all involved. Staff/unions were fearful for the security of their future employment, customers (toll and others) were reluctant to continue to do business with a distressed company, supplier goodwill and all credit terms were lost, shareholders were anxious about their investments, regulators were concerned with non-compliance, and management had to run a business at the same time as trying to manage a crisis.

- 8.2. Added to this and the considerable administrative requirements of business rescue, there was an immediate need for the BRP and management to stabilise the business and, as far as possible, to regain the confidence of the stakeholders noted above.
- 8.3. The BRP immediately had to renegotiate the arrangements with Eskom to avoid the threatened termination of the supply of power to the Mintails Group. After tough negotiations this was achieved with Eskom and an agreement which secured continued power supply during the Proceedings was reached. The BRP is grateful to Eskom for the ultimately pragmatic approach adopted in this regard.
- 8.4. The BRP met with numerous suppliers to the Companies to reassure them that a rescue was realistic, to secure continued supplies from them, and to agree payment terms and arrangements for future supplies. The majority of suppliers were supportive, and have remained so. The BRP is grateful to suppliers for their continued support of the Companies.
- 8.5. The BRP met with toll customers who provided hard rock ores for processing in Gold Plant 1. Agreements were reached on payment terms and arrangements for future toll supplies, and most contracts were adjusted upwards to provide for higher pricing for Mintails' tolling services. Again the BRP is grateful to toll customers for their understanding and continued support of MGSA.
- 8.6. The BRP and the MMSA management team, led by Eddie Milne, sought to create operational and financial stability and to keep the operations running and cash generative in order that the financial position of the Mintails Group did not worsen or collapse during its business rescue Proceedings. A cessation of operations would likely have been fatal to the rescue process.
- 8.7. Cash flow throughout the Proceedings has been extremely tight.
- 8.8. Mintails Group gold production during the 11 month period from November 2015 to September 2016 averaged 100.8 Kgs per month (3,241 ounces). By comparison, the average monthly gold production in the 12 months prior to the commencement of

business rescue Proceedings was 80.2 Kgs (2,578 ounces)]. Whilst gold produced is not directly proportional to profitability, it is a good indicator of the efficiency of the operations.

- 8.9. The average gold price received by the Mintails Group during the business rescue Proceedings has been significantly beneficial to the group, aided by both an increase in the US\$ gold price and the deterioration in the value of the Rand against the US\$.
- 8.10. No employees were retrenched during the business rescue Proceedings. Over the period in respect of the Mintails Group, the number of employees increased from 328 to 369 and the number of contractors engaged increased from 488 to 574.
- 8.11. During the business rescue Proceedings, cash payments made over and above operating costs included: c.R8 million paid to toll clients to catch up on claims initially considered to be “pre-business rescue” Claims, but on analysis by the BRP confirmed to be “post business rescue” claims; and R11 million spent of critical capital equipment for operations; R2 million spent on environmental rehabilitation activities.
- 8.12. In seeking to structure rescue proposals/plans for the Mintails Group, the BRP secured and structured several offers for investment into the group by third parties. However MSA (the controlling shareholder and major creditor) noted its discomfort with (*inter alia*) certain of the payment arrangement implicit in these offers, and thus after due consideration notified the BRP that it would be unwilling or unable to vote in favour of any business rescue plan that proposed any of them. It is noted that MSA holds the bulk of the security and the rights to the distributable assets of the Companies if liquidated. MSA is by far the largest creditor of the Group.
- 8.13. A number of sub-economic acquisition and merger proposals were presented to the BRP, but none that the BRP considered would adequately address the interests of Affected Persons.
- 8.14. The BRP ultimately therefore developed a 10 year plan which contemplated a further investment into the Mintails Group by Paige. The 10 year plan comprised an operating plan for the Mintails Group, including the recommissioning of Gold Plant 2, and a financial

plan to achieve an acceptable return on the proposed additional investment required by Paige. That plan forms the heart of this Business Rescue Plan.

- 8.15. Paige engaged and deployed a technical team to conduct a due diligence of the operational and financial details of the BRP's 10 year plan, the costs for which are included in Post Commencement Finance of the Companies. The Paige technical team satisfied itself and Paige that, subject only to the Confirmatory Due Diligence provided for in clause 28, the plan supported the proposed additional investment by Paige. Paige have therefore in principle agreed to advance up to a further c.R90 million of funding to the Mintails Group, subject to the Confirmatory Due Diligence, and is supporting the proposed raising of a further R116 million to fund the recommissioning of Gold Plant 2.
- 8.16. Creating a workable financial plan has been complicated by the Companies' high level of liabilities relative to their modest level of assets. When coupled with the need to inject new funding in terms of the 10 year operational plan, therefore, no creditor is proposed to receive immediate payment of its Claim. MSA (despite being the only significant holder of security) has agreed to waive its right to any immediate repayment at this time and to subordinate its claims to those of the other Creditors in order to support the plan. No direct settlement of any inter-group company loans are proposed. Standard Bank, will be repaid over the terms of its underlying finance agreements. Trade and toll creditors of the Companies will receive 70% or more of their claims, repaid over a period of three years. Rehabilitation obligations will be resolved and funded over the life of mine.
- 8.17. Notwithstanding that the CMDCs are not directly creditors of the Companies, strategically and in the pursuit of a balanced and equitable solution to the rescues, the BRP with MSAs backing has structured a proposal which will result in the resolution of the CMD business rescue plan and the complicated operating arrangements, and will provide a meaningful return to the CMDCs. That proposal is included in this Business rescue Plan as the "CMD Offer".
- 8.18. The BRP has developed and proposed to the DMR a practical and pragmatic manner to address the implementation and funding of the rehabilitation liabilities of the Mintails Group (c.R300 million) over an appropriate period. The DMR have been tremendously supportive of the initiatives to save the c.900+ jobs involved and the possibility of the full

rehabilitation liability reverting to the State, and Regional Manager of the DMR has approved the BRP’s rehabilitation proposals as set out in clause 38.

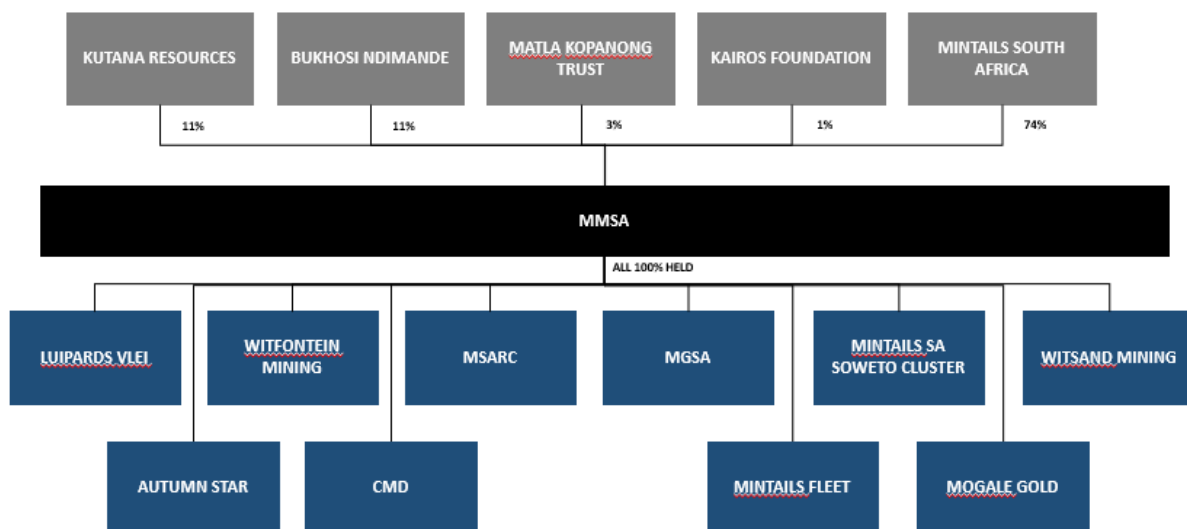
8.19. The management team has recently been strengthened by the appointment by the BRP of a new Chief Executive Officer and a new Chief Operating Officer, and further appointments are under consideration. The executive committee has been duly restructured.

8.20. Various initiatives are underway to dispose of non-core assets of the Mintails Group to raise funds to support the turnaround of the Companies.

8.21. Thus – with the new funding, the balance sheet restructuring, the management changes, a clear 10 year business plan, the recommissioning of Gold Plant 2, the DMR’s support, and other developments during and/or arising from the business rescue process – the BRP is confident that the approval and implementation of this Business Rescue Plan will put the Companies back on a solid path towards operational solvency and profitability.

9. The Mintails Group structure

The Mintails Group at the Commencement Date comprised of the following:



10. Boards of directors

10.1. The boards of directors of the Companies as at the Commencement Date comprised of:

- 10.1.1. T Mokgosi-Mwantembe (MMSA);
- 10.1.2. BH Ndimande (MMSA);
- 10.1.3. H Carr (MMSA)
- 10.1.4. MA Brune (MMSA; MGSA; MSARC);
- 10.1.5. LJ Blumberg (MMSA; MGSA);
- 10.1.6. EE Milne (MGSA; MSARC); and
- 10.1.7. MD Rose (MGSA).

11. Workforce details

11.1. MMSA currently employs 39 employees and engages 125 sub-contractors.

11.2. MGSA currently employs 330 employees and engages 166 sub-contractors.

11.3. MSARC currently has no employees and engages 59 sub-contractors.

11.4. Other Mintails Group companies engage 224 sub-contractors;

11.5. The Mintails Group thus collectively employs 369 employees and engages 574 sub-contractors.

12. Assets of the Companies

12.1. The unaudited interim accounts of the Companies for the 6 months ended 31st December 2015 provide a reasonable proxy for Affected Persons to assess the financial position of the Companies on and around the Commencement Date (balance sheets are only prepared at half year and year end).

12.2. MMSA: The table below provides a summary of the assets of MMSA as extracted from the unaudited interim accounts of the company as at 31 December 2015:

Assets	
Non-current assets	R 717,589,962
Property, plant and equipment	R 647,814
Intangible assets	R 734,864
Investments in subsidiaries	R 57,722,831
Loans to Mintails Group companies ¹	R 658,484,452
Current assets	R 3,819,738
Trade and other receivables	R 100,000
Cash and cash equivalents	R 3,719,738
Total assets	R 721,409,700

¹ **Note** - this asset has been adjusted upwards to reflect the full amount of loans to Mintails Group companies and excludes an impairment provision of c.R531m in order to make it consistent with the tables provided below for the other Companies.

12.3. **MGSA:** The table below provides a summary of the assets of MGSA as extracted from the unaudited interim accounts as at 31 December 2015:

Assets	
Non-current assets	R 171,517,921
Property, plant and equipment	R 171,517,921
Current assets	R 54,074,228
Inventories	R 10,800,099
Trade and other receivables	R 43,273,130
Cash and cash equivalents	R 1,000
Total assets	R 225,592,149

12.4. **MSARC:** The table below provides a summary of the assets of MSARC as extracted from the unaudited interim accounts as at 31 December 2015:

Assets	
Non-current assets	R 65,297,093
Property, plant and equipment	R 16,394,283
Intangible assets	R 48,902,810
Current assets	R 26,424,842
Trade and other receivables	R 997,303
Cash and cash equivalents	R 25,427,538
Total assets	R 91,721,935

13. Property portfolio

13.1. The properties below are owned by the Mintails Group (in separate 100% MMSA held subsidiary companies) and have been independently valued as follows (note these are reflected in the MMSA asset values above):

Property	Size (ha)	Value (R'm)
Luipaards Vlei		
Rietvlei Farm 241, portion 25	38	2.6 ¹
Luipaardsvlei Farm 246, portion 209	641	46.0 ²
Witfontein		
Witfontein Farm 262, portion 66	1,333	42.0 ²
Witfontein Farm 262, portion 2		
Witfontein Farm 262, portion 60		
Rykdom Farm 276, portion 1 (now consolidated with Witfontein Farm 262, portion 2)		
Mogale Gold		
Waterval 174 IQ, portion 66	29	0.8 ¹
Total	2,041	91.4

¹ Valuation performed in May 2012

² Valuation performed in February 2016

14. Equity and liabilities of the Companies

14.1. MMSA: The table below provides a summary of the equity and liabilities of MMSA as extracted from the unaudited interim accounts as at 31 December 2015:

Equity and Liabilities	
Equity	R 122,200,621
Share capital	R 300
Accumulated profit / (loss) ¹	R 122,200,321
Liabilities	
Non-current liabilities	R 590,047,959
Loans from Mintails Group companies	R 111,459,982
Loans from shareholders	R 478,587,977
Current liabilities	R 9,161,120
Trade creditors (BR)	R 7,227,678
Trade and other payables	R 1,933,442
Total liabilities	R 599,209,079
Total equity and liabilities	R 721,409,700

¹ Note - retained earnings have been adjusted upwards to reverse the impairment provision of c.R531m noted in clause 12.2 above.

14.2. MGSA: The table below provides a summary of the equity and liabilities of MGSA as extracted from the unaudited interim accounts as at 31 December 2015:

Equity and Liabilities	
Equity	R -72,596,613
Share capital	R 100
Reserves	R 143,401,674
Accumulated profit / (loss)	R -215,998,387
Liabilities	
Non-current liabilities	R 212,483,183
Loans from Mintails Group companies	R 212,483,183
Current liabilities	R 85,705,580
Trade creditors (BR)	R 69,841,549
Trade and other payables	R 15,864,031
Total liabilities	R 298,188,762
Total equity and liabilities	R 225,592,149

14.3. MSARC: The table below provides a summary of the equity and liabilities of MSARC as extracted from the unaudited interim accounts as at 31 December 2015:

Equity and Liabilities	
Equity	R -599,413,495
Share capital	R 1
Accumulated profit / (loss)	R -599,413,496
Liabilities	
Non-current liabilities	R 686,111,922
Loans from Mintails Group companies	R 480,667,986
Finance lease liabilities	R 3,170,207
Rehabilitation provision	R 202,273,730
Current liabilities	R 5,023,507
Trade creditors (BR)	R 5,023,507
Total liabilities	R 691,135,429
Total equity and liabilities	R 91,721,935

15. Creditors and their Claims

15.1. The amount owing to the Creditors of each of the three Companies and their voting interests are set out in Schedule A. The Creditors can be broken down into those that are Secured Creditors, those that are Preferent Creditors, and those that are Concurrent Creditors), as summarised in the clauses below.

15.2. MMSA: (see Schedule A1)

15.2.1. Secured Creditors:

None nil

15.2.2. Preferent Creditor:

E.Milne R 20,075

15.2.3. Concurrent Creditors:

Trade creditors R 7,227,678

Shareholder loan (MSA) R 534,880,935

Group loans R 108,468,288

Total Concurrent Creditors R 650,576,901

15.2.4. **Total Claims** **R 650,596,976**

15.3. MGSA: (see Schedule A2)

15.3.1. Secured Contingent Claim:

MSA Guarantee R 99,688,656

15.3.2. Preferent Creditor:

G Mokoena R 262,875

15.3.3. Concurrent Creditors:

Trade creditors R 69,841,549

Group loans R 254,684,078

Total Concurrent Creditors R 324,525,627

15.3.4. **Total Claims** **R 424,477,158**

15.4. MSARC: (see Schedule A3)

15.4.1. Secured Creditors:

Standard Bank	R 1,456,667
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15.4.2. Concurrent Creditors:

Trade creditors	R 5,023,507
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Group loans	R 476,883,777
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Total Concurrent Creditors	R 481,907,284
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15.4.3. Total Claims	R 483,363,951
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15.4.4. Environmental liability provision	R 202,273,730
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16. Probable liquidation dividend

16.1. In terms of the Act, the Business Rescue Plan is required to include a statement of the probable dividend that would be received by Creditors, in their specific classes, if the Companies were to have been placed in liquidation.

16.2. The BRP engaged the services of PricewaterhouseCoopers to calculate the probable liquidation dividend that would be paid to the various classes of Creditors of each of the Companies (“**PWC Report**”). Valuations of various Company assets were undertaken by relevant experts in support of the PWC Report.

16.3. The computation of the probable liquidation dividend was made on the assumption that the liquidation occurred on 31st December 2015, being the interim period for financial reporting. The BRP respectfully submits that Affected Persons are better served with the use of these accounts for the calculation of the liquidation dividend as these accounts include balance sheets and are reviewed by the Companies’ Auditors. The BRP does not believe that any material variance in this liquidation dividend computation would have arisen in the six week period between 14th October 2015 and 31st December 2015.

16.4. A summary of the key findings of the PWC Report is provided in Schedule C. Affected Persons are cautioned to exercise their own judgement in relation to the assumptions implicit in the probable liquidation dividend calculation.

16.5. The PWC Report provides a detailed derivation of the probable dividend which would be payable to the various classes of Creditors of the three Companies in the event of the immediate liquidation of the Companies. In summary, this is as follows:

16.5.1. MMSA

- 16.5.1.1. to Secured Creditors: not applicable
- 16.5.1.2. to Preferent Creditors: 100 cents in the Rand
- 16.5.1.3. to Concurrent Creditors: **11.1** cents in the Rand

16.5.2. MGSA

- 16.5.2.1. to Secured Creditors: 100 cents in the Rand
- 16.5.2.2. to Preferent Creditors: 100 cents in the Rand
- 16.5.2.3. to Concurrent Creditors: **3.2** cents in the Rand

16.5.3. MSARC

- 16.5.3.1. to Secured Creditors: 40 cents in the Rand
- 16.5.3.2. to Preferent Creditors: Not applicable
- 16.5.3.3. to Concurrent Creditors: **1.4** cents in the Rand

16.6. The BRP notes that a commonly applied assumption to matters of this nature is that a liquidator could be expected to take two years (or more) to finalise and make payment of the applicable liquidation dividends. Neither the time value of money nor any additional costs incurred in this period have been factored into the above calculations.

16.7. It would not be unreasonable, therefore, to consider a discount factor of say 10-20% to the above dividends to reflect the time value of money related to this period.

17. Other business rescue obligations of the Companies

17.1. Post-Commencement Finance:

- 17.1.1. The BRP sought early in the Proceedings to raise an amount of approximately R20 million to serve as a reserve against operational / cash flow fluctuations during the Proceedings. However, due the perilous state of the Companies at that time the BRP was unsuccessful and no such funding was secured.
- 17.1.2. MMSA accepted an offer, subject to acceptance thereof in this Business Rescue Plan, for the sale of the shares of the holding company of the non-core tailings dumps in the Soweto Cluster. A R5 million advance payment was received by MMSA in this regard, and is classified as Post Commencement Finance. A pledge of the shares of Mintails SA Soweto Cluster (Pty) Limited was granted by MMSA to the offeror. On the first Publication Date MSA formally advised the BRP that it would not be willing to approve a business rescue plan which contemplated the sale of the Soweto Cluster tailings dumps. This Business Rescue Plan has thus been amended to reflect the wishes of MSA. The offeror has been advised the contemplated sale is incapable of completion and the R5 million deposit has been refunded to the offeror.
- 17.1.3. Paige has funded, and continues to fund, various initiatives on behalf of the Companies in support of the implementation of the 10 year plan underpinning the Business Rescue Plan. Such expenditures shall be classified as Post Commencement Finance.

17.2. Necessary operating costs of the Companies:

- 17.2.1. Certain costs which were considered to be necessary for the continued operation of the Companies during their Proceedings, and/or were considered to be net positive in their contribution to the business rescue Proceedings being successful (as defined in the Act), have been treated as part of the Business Rescue Costs in terms of the Act.

17.2.2. In aggregate these costs are not material to the Proceedings and have been met from operational cash flows.

17.3. Business Rescue Costs

17.3.1. Business Rescue Costs comprise the BRP's remuneration, his expenses, and other costs associated with the business rescue Proceedings of the Companies and the preparation of this Business Rescue Plan.

17.3.2. The fees of the BRP have for the duration of the Proceedings to date been charged in accordance with clause 23 and will be substantially settled prior to the S.151 Meetings.

17.3.3. The BRP will continue to charge for his services in accordance with clause 23 until the Termination Date. On the assumption that this Business Rescue Plan is adopted and that there are no unforeseen complications arising, it is estimated that the BRP's Base Fees accruing between the Adoption Date and the Termination Date will be approximately R300,000 for each of the Companies.

17.3.4. Accrued expenses relating to advisors engaged during the Proceedings to date (as provided for in the Act) will be substantially settled prior to the S.151 Meeting.

17.3.5. The costs of advisors to be incurred in the period between the Adoption Date and the Termination Date is estimated to be approximately R350,000 for each of the Companies. These will be paid to the advisors concerned as and when invoiced to the Companies.

17.3.6. The total of the remaining Business Rescue Cost obligations (actual and estimated) to be addressed in this Business Rescue Plan is therefore anticipated to be approximately R650,000 for each of the Companies.

17.3.7. A summary of the Business Rescue Costs is provided in Schedule B.

18. Security held by Creditors

18.1. The following Creditors hold security in terms of the Companies' assets as at the Publication Date:

18.1.1. MMSA:

MMSA has pledged the shares it holds in subsidiary Mintails SA Soweto Cluster (Pty) Limited to the offeror for the Soweto Cluster dumps as security for the advanced R5 million of Post Commencement Finance.

18.1.2. MGSA:

The majority of mining plant and equipment is secured under a special notarial bond in support of a guarantee issued by MGSA in favour of MSA in respect of a portion of its lending into MMSA (capped at R99.7 million including costs).

18.1.3. MSARC:

In terms of an instalment sale agreement, Standard Bank has an unlimited suretyship over the Luipersvlei properties to the value of R1,456,667 as at 11th October 2016.

19. Proof of Claims

19.1. The Act does not expressly set out the manner in which Claims should be adjudicated.

19.2. The value of the Claims against the Companies (both trade and other creditors) as at the Commencement Date have been reconciled by the Companies (with reference to the Companies' own records) to the satisfaction of the BRP.

19.3. Furthermore, the value of the Claims has been communicated to known Creditors and, where differences have arisen, these have been reconciled between the Companies and the Creditor(s) in question.

19.4. The BRP has not carried out an audit of the Claims, but has satisfied himself as to processes that have been undertaken by the Companies to reconcile the Claims.

19.5. Clause 58 below sets out the process for late claims to be lodged with the BRP by those persons who believe they have a valid claim against the Companies as at the Commencement Date which has not been recognised or correctly recognised in this Business Rescue Plan.

20. Taxation

The Companies appointed Grant Thornton Tax Services (“**Grant Thornton**”) to perform a review of the tax positions and considerations for the Mintails Group, and in particular the Companies. The following summarises the relevant points of Grant Thornton’s findings:

20.1. MMSA

- The MMSA tax loss carried forward per Grant Thornton’s 2015 calculation is c.R0.2 million.

20.2. MGSA

- SARS has raised penalties of c.R20m in respect of tax assessments for the financial years 2011 and 2012 (the “**SARS Claim**”). MGSA has issued a letter of objection to the penalties. SARS has requested substantiating documents for the objection. These documents have been supplied. MGSA is currently awaiting the outcome of the objection
- The MGSA tax loss carried forward per Grant Thornton’s 2015 calculation is c.R463m.

20.3. MSARC

- The tax loss carried forward per Grant Thornton’s 2015 calculation is c.R383m.

21. Significant events subsequent to the Commencement Date

21.1. Suspension of contractual obligations:

- 21.1.1. Certain obligations contractually due for payment by the Companies during Business Rescue were partially suspended by the BRP in order to improve the liquidity of the Companies during this time.

21.1.2. The management fees for services provided by MSA, Bukhosi Ndimande and Kutana Resources Proprietary Limited, as provided for in the MMSA shareholder agreement, were suspended as of 1st December 2015.

21.2. Fraud investigation:

21.2.1. The BRP received various allegations from Mintails Group staff relating to questionable behaviour of current and previous management. In accordance with section 141 of the Companies Act, BRP investigated these allegations.

21.2.2. The BRP appointed Mr Marco Keijzers (RA) (CFE) (“Investigator”) to assist the BRP in assessing the allegations. The Investigator scrutinised information pertaining to various matters required for the investigation, which included, but were not limited to:

21.2.2.1. the sale of aggregates;

21.2.2.2. the management of the Witfontein property; and

21.2.2.3. other matters arising.

21.2.3. The Investigator’s findings were based on information collected from source documentation such as invoices, purchase orders and emails, and interviews held with staff, management and counterparties.

21.2.4. A summary of the Investigators key findings is as follows:

21.2.4.1. a more in-depth investigation into various processes may have led to additional findings, both financial and non-financial. However, based on the work performed, no fraudulent transactions were found;

21.2.4.2. behaviour that is at best categorised as “poor corporate governance” existed, meaning that there were many processes within the Mintails Group that could be considered to be high-risk in terms of fraud;

- 21.2.4.3. no collusion within Mintails Group or between Mintails Group staff and third parties that led to fraud was discovered. However, “red flags” were present. The general impression expressed was one of a culture of “islands” and a lack of transparency;
- 21.2.4.4. some whistle-blowers’ allegations proved to be based on “hearsay”; and
- 21.2.4.5. important group information is unnecessarily centralised, with limited sharing amongst relevant staff members in a number of cases.

22. Informal proposals from Creditors

- 22.1. In Terms of the Act, the BRP confirms that this Business Rescue Plan does not include any proposal made informally to the BRP or the Companies by a Creditor, other than those relating to MSA, the largest creditor of the Mintails Group, already incorporated into this Business Rescue Plan.
- 22.2. The BRP further confirms that, as at the Publication Date, he is not aware of any other Creditor planning to make any such proposal.

23. Remuneration of the BRP

- 23.1. Relevant extracts of the BRP’s Engagement Agreement are attached as Schedule G.
- 23.2. The BRP is entitled to be remunerated by the Companies at a rate of R1,750 per hour for his services pertaining to the Business Rescue (“**Base Fees**”).
- 23.3. In terms of the Act, the BRP is further entitled to propose and receive contingency fees on the fulfilment of particular outcomes (“**Contingency Fee**”). In terms of Schedule G, the BRP and the Companies agreed in advance to Contingency Fee arrangements of this nature whereby the BRP shall be entitled to a Contingency Fee which grosses his earning up by R1,750 per hour.

- 23.4. The motivation and computation behind the Contingency Fee was to bring the actual fees paid to the BRP to a level equal to R3,500.00 per hour, which is considered to be an acceptable risk related hourly fee rate for a complex assignment of this nature undertaken by a BRP of his standing. The Contingency Fee was subject to a maximum fee of R600,000 per Company. This maximum limit has been reached.
- 23.5. As a term of this Business Rescue Plan, the Contingency Fee of R600,000 per Company will become effective upon the approval by the relevant Creditors and shareholders at a meeting called in terms of the Act to approve these fees. The appropriate meetings will be called and notified to Creditors and shareholders once the Business Rescue Plan has been approved and adopted.
- 23.6. The Contingency Fee will become payable on the commencement of Phase 2 of the Business Rescue Plan.
- 23.7. The majority creditor of MMSA, being MSA, has confirmed its commitment to approve the BRP's contingency fee proposals, and to MMSA's underwriting of these fees on behalf of the Companies in terms of this Business Rescue Plan.

PART B – PROPOSALS

24. Order of distribution

24.1. In terms of Chapter 6 of the Act, creditors in business rescue proceedings are required to be paid in the following order of priority:

- 24.1.1. the business rescue practitioner, for remuneration and expenses, and other persons (including legal and other professionals) for costs of the business rescue proceedings;
- 24.1.2. employees for any remuneration which became due and payable after business rescue proceedings began;
- 24.1.3. secured lenders or other creditors for any loan or supply made after business rescue proceedings began, i.e. Post-Commencement Finance;
- 24.1.4. secured lenders or other creditors for any loan or supply made before business rescue proceedings began;
- 24.1.5. unsecured lenders or other creditors for any loan or supply made after business rescue proceedings began, i.e. Post-Commencement Finance;
- 24.1.6. employees for any remuneration which became due and payable before business rescue proceedings began; and
- 24.1.7. unsecured lenders or other creditors for any loan or supply made before business rescue proceedings began.

24.2. The BRP notes that the judgement in ***Merchant West Working Capital Solutions Proprietary Limited v Advanced Technologies and Engineering Company Proprietary***

Limited and Others suggests that clauses 24.1.4 and 24.1.5 above might be reversed in their order. This would, in either interpretation, have no impact on this Business Rescue Plan.

25. Outline of the Business Rescue Plan

25.1. This Business Rescue Plan has been structured based on the following principles and phases (assuming the adoption of the Business Rescue Plan by MMSA, MGSA and MSARC):

25.1.1. the Companies will continue in business, each trading as a going concern as they have since the Commencement Date, notwithstanding the concurrent process to implement this Business Rescue Plan;

25.1.2. **Phase 1** – Confirmatory Due Diligence and fund raising

25.1.2.1. Key actions in Phase 1 shall be:

- ✓ the management team shall complete the Gold Plant 2 Confirmatory Due Diligence **[clause 28]**;
- ✓ Moolman/BRP shall complete the Third Party Funding discussions and negotiations (to binding term sheet) **[clause 33]**;
- ✓ the management team shall complete the operational Business Review **[clause 29]**;
- ✓ the management team shall investigate and estimate costings for Gold Plant 1 optimisation capex spend **[clause 35]**;
- ✓ the rehabilitation guarantee shall be finalised **[clause 38]**;
- ✓ MPRDA Section 11 applications in respect of MR132 and MR133 shall be lodged with the DMR once the new BEE shareholders have been secured;
- ✓ new BEE shareholders shall be sourced and structure created to appropriately empower the Mintails Group **[clause 31]**;
- ✓ the Witfontein property sale process shall continue **[clause 34]**;

- ✓ the discussion with SARS on the objection lodged with SARS in respect of the c.R20 million SARS Claim shall be continued and concluded **[clauses 20 and 40]; and**
- ✓ MSA/Paige shall address all regulatory, MLI restructuring or other requirements required for them to enter into the Paige Funding arrangements.

25.1.3. **Phase 2** – Rebuilding and implementation

25.1.3.1. The commencement of Phase 2 shall be conditional on Paige’s approval of the Confirmatory Due Diligence and the Third Party Funding having been secured and shall, to the extent that the remaining key actions in Phase 1 remain incomplete, commence and continue in parallel with the remaining incomplete Phase 1 key actions.

25.1.3.2. Key Actions during Phase 2 shall be:

- ✓ Paige shall deliver the new funding facilities to MMSA (via MSA) **[clause 32];**
- ✓ the BRP and MMSA shall complete documentation and draw down on the Third Party Funding **[clause 33];**
- ✓ asset sales shall be completed to the extent not completed during Phase 1 **[clause 34];**
- ✓ the entry of the new BEE shareholders shall be completed to the extent not completed during Phase 1 **[clause 31];**
- ✓ new directors to serve on the Boards of the Mintails Group companies shall be identified and appointed **[clause 30];**
- ✓ Gold Plant 1 plant shall be optimised in accordance with the investigations made during Phase 1 **[clause 35];**
- ✓ the processes to secure additional hard rock ore supply sources for Gold Plant 1 shall commence/continue **[clause 36];**

- ✓ Gold Plant 2 shall be refurbished and recommissioned in accordance with the Confirmatory Due Diligence findings **[clause 37]**;
- ✓ the implementation of the Rehabilitation Proposal shall commence **[clause 38]**;
- ✓ the CMDC Offer shall become unconditional and the CMD business rescue proceedings shall terminate **[clause 39]**;
- ✓ trade Creditors shall begin to be paid their claims in equal monthly instalments in terms of the Creditor Program **[clause 40]**.

25.1.3.3. If either or both of the abovementioned conditions precedent to the commencement of Phase 2 are not met to the satisfaction of the BRP, the BRP shall assess the circumstances of the Mintails Group at that time and shall either: (a) agree a revised way forward towards Phase 2 with the principal funders (Paige and Third Party Funders); and/or (b) issue a revised Business Rescue Plan to the various Creditor bodies for their consideration; or (c) if required by the circumstances and business rescue legislation, file for the liquidation of MMSA and subsidiaries.

25.2. Inter-conditionality:

- 25.2.1. The MMSA business rescue plan shall be conditional on the approval and adoption of the MGSA business rescue plan [note – both have been approved and adopted];
- 25.2.2. The MGSA business rescue plan shall be conditional on the approval and adoption of the MMSA business rescue plan [note – both have been approved and adopted];
- 25.2.3. The MSARC business rescue plan shall be conditional on the approval and adoption of the MMSA and the MGSA business rescue plans [note – both have been approved and adopted];

25.3. Once the BRP is satisfied that relevant Phase 2 steps, processes and/or procedures for a Company have been successfully implemented, waived and/or are operating appropriately, as the case may be, the BRP will (always subject to his discretion and in accordance with Clause 53) declare that the Business Rescue Plan for that Company has been substantially implemented and shall terminate the business rescue Proceedings of that Company.

26. Indicative Timetable

26.1. The estimated timing of key events in order to cater for both the legal business rescue processes and the rescue strategy noted above is as follows:

26.1.1. The Business Rescue Plan for MMSA and MGSA was published 21st October 2016 and the amended Business Rescue Plan for MSARC was published on 13th December 2016;

26.1.2. S.151 meetings of Creditors to vote on the Business Rescue Plan were held on 4th November 2016 (MMSA and MGSA) and on 29th November 2016 (MSARC), and the meeting to consider this amended Business Rescue Plan will be held on 22nd December 2016;

26.1.3. Phase 1 to commence by end December 2016 (assuming the Business Rescue Plan is approved and adopted);

26.1.4. metallurgical and other test work on tailings in terms of the Confirmatory Due Diligence estimated completion by mid January 2017;

26.1.5. plant design, revised capex, opex and cash flow budget computations in terms of the Confirmatory Due Diligence estimated completion by end January 2017 (driven by above);

26.1.6. Paige approval of Confirmatory Due Diligence during January 2017;

26.1.7. Third Party Fund raising estimated to be completed during Q1 2017;

26.1.8. Phase 2 to commence by (say) end Q1 2017 (both conditions precedent met);

26.1.9. Business Rescue Proceedings terminated as soon as is appropriate thereafter.

27. MMSA Management Team Restructuring

27.1. The MMSA management team has (September 2016) been restructured under the guidance of Moolman as follows:

27.1.1. Executive Committee:

27.1.1.1. Chief Executive Officer (CEO): Johan Moolman

27.1.1.2. Chief Operating Officer (COO): Rob Guest

27.1.1.3. Interim Chief Financial Officer (CFO): Mike Potgieter

27.1.1.4. Head of Human Resources (HHR): Liz Mofokeng

27.1.1.5. Head of Stakeholder Relations (HSR): Sylvan Montshonyane

27.1.2. The COO, CFO, HHR and HSR each report directly to the CEO.

27.1.3. The heads of Mineral Resource Management, Processing, Engineering, Safety and Mining report directly to the COO. The head of Environmental Management, Faith Chademana, reports to the CEO and will join executive committee meetings to report on environmental matters, including progress made on the implementation of the Rehabilitation Proposal.

27.1.4. Second tier management and supervisory teams are to be reviewed in terms of roles, responsibilities, reporting lines, remuneration structures, etc.

28. Confirmatory Due Diligence

28.1. The Confirmatory Due Diligence shall be completed during Phase 1. This exercise shall be led by the management team and builds on the initial assessment (the “**Technical Report**”) made by the Paige technical team and presented to Paige on 12th August 2016 (styled as the “Paige Project”).

28.2. The objective of the Confirmatory Due Diligence is to serve as a condition precedent in favour of Paige in respect of the commitment by Paige to provide funding to MMSA currently estimated in the amount of up to c.R90 million in support of the Business Rescue Plan. Recent discussions with the ex-plant manager of Gold Plant 1 have indicated that certain of the test work envisaged has in fact already been conducted. It is possible (not yet certain) that this may lessen the confirmatory process as set out below.

28.3. The Confirmatory Due Diligence shall broadly cover:

28.3.1. the collection of new “representative” samples from each of the tailings target mining zones;

28.3.2. subjecting the “representative” drill samples to a vigorous program of laboratory test work using actual process water to determine the following:

28.3.2.1. gold extraction levels at various head grades;

28.3.2.2. gold extraction levels at various leach periods;

28.3.2.3. reagent consumption levels;

28.3.2.4. the variability of metallurgical behaviour in different zones; and

28.3.2.5. the relationship between total recovery, head grade and leaching time;

28.3.3. the determination of a suitable supply of process water, including:

28.3.3.1. a review and analysis of the different process water sources to identify the option with the lowest Ca, Fe and Mn content;

28.3.3.2. a determination of the necessity (or not) to install a water treatment plant and, if so, to prepare and cost an appropriate design;

- 28.3.4. an engineering review of aspects of the plant and the recommendations made in the Technical Report, including:
 - 28.3.4.1. checking all equipment and power requirements to ensure that they can handle the reclaimed slurry at the required flow rates;
 - 28.3.4.2. assessment of implications of installing at least two additional CIL tanks (complete with agitators, gearboxes & motors, interstage screens and carbon transfer pumps) in anticipation of the need for additional leach residence time, taking into account the outcome of the laboratory test work per clause 28.3.2;
 - 28.3.4.3. sizing and installation a large surge tank between the tailings reclamation section and the gold plant (to be installed near the plant);
 - 28.3.4.4. validation of the agitator designs, as there is a concern that the agitation might not be very efficient with the single turbine agitators installed in the six existing CIL tanks;
 - 28.3.4.5. assessment of water supply capacity to feed both G1 and G2 and mining and hydraulic re-mining activities; and
 - 28.3.4.6. the capital cost estimates for all new equipment must be rechecked, updated and preferred suppliers identified;
- 28.3.5. subject to the outcome of the above:
 - 28.3.5.1. the plant design, works programme and capital expenditure budget for Gold Plant 2 is to be finalised and refined; and
 - 28.3.5.2. the business plan and cash flow model for the Mintails Group are to be finalised and refined.

28.4. Paige's confirmation of its satisfaction with the outcome of this Confirmatory Due Diligence exercise shall be one of the two conditions precedent to the progression of the Business Rescue Plan into Phase 2.

29. Business Review

29.1. Contemporaneously with the Confirmatory Due Diligence, a full review shall be undertaken during Phase 1, under the guidance of Moolman, of the operational aspects of running both Gold Plant 1 and Gold Plant 2, and the mining operations of the Mintails Group, with particular emphasis on:

- 29.1.1. a critical review of the executive management team to ensure that it contains appropriate leadership and technical capabilities;
- 29.1.2. improving cost accounting and financial management processes at operational and corporate level;
- 29.1.3. establishing Key Performance Indicators for all key activities;
- 29.1.4. re-energizing the workforce;
- 29.1.5. enforcement of a proactive health and safety culture;
- 29.1.6. monitoring and implementing DMR compliance;
- 29.1.7. corporate governance policies and operational procedures;
- 29.1.8. staff and labour organizational structures and responsibilities;
- 29.1.9. contractual and legal matters;
- 29.1.10. gold accounting procedures, systems, checks and balances;
- 29.1.11. toll agreements and procedures;

29.1.12. aggregate sales procedures and agreements;

29.1.13. the capital and operational structure of the Mintails Group.

29.2. The objectives of the Business Review are to identify levers to be addressed during Phase 2 to improve operational efficiency, to reduce costs, to drive revenues, to improve regulatory compliance, to improve reporting standards, and to motivate and incentivise staff and management.

30. Board Restructuring

30.1. The directors of the Companies and of all other subsidiaries of MMSA have or will resign by the end of Phase 1.

30.2. The shareholders, in conjunction with Moolman, shall accordingly restructure the Board of Directors of MMSA and each of its subsidiaries:

30.2.1. this shall be effective from the termination of the business rescue Proceedings (although can be implemented earlier, subject to the supervision of the BRP);

30.2.2. the objective is to incorporate independent non-executive directors that can support and guide management and assist the Company with the management of stakeholder relationships at a strategic and regulatory level;

30.2.3. consideration will be given to local directors and directors with knowledge and experience of matters directly related to the operations of the Mintails Group.

31. BEE Shareholders

31.1. Shortly before the publication of this Business Rescue Plan the three primary shareholders of MMSA agreed to an amicable separation in terms of which Mr Bukhosi Ndimande and Kutana Resources (Pty) Limited have exited their collective 22% shareholding in MMSA.

- 31.2. During Phases 1 and 2 the BRP will assure the Group is brought back into compliance with its obligations for BEE compliant ownership:
- 31.2.1. immediately upon approval and adoption of the Business Rescue Plan negotiations with interested parties will commence for the sale of shares within the Mintails Group to qualifying HDSAs;
 - 31.2.2. the exact structure will be informed by the new Mining Charter which is due for publication during Phase 1 (expected by end November 2016) and/or the outcome of the court review initiated by the Chamber of Mines regarding the Mining Charter's application to existing mining rights holders;
 - 31.2.3. the existing Community and Employee Trusts will remain as shareholders in the new BEE structure but may need to be amended and/or increased to meet the requirements of the applicable Mining Charter;
 - 31.2.4. the proposed BEE transactions will be subject to the appropriate regulatory approvals being granted.
- 31.3. The BEE transactions will be undertaken in accordance with local legislation and appropriate tax structuring.

32. Paige Funding

- 32.1. Paige shall, subject to a positive Confirmatory Due Diligence and the securing of a satisfactory "soft commitment" (i.e. subject to final agreements being drafted and entered into) term sheet for the Third Party Funding (i.e. the advancement of the Business Rescue Plan to Phase 2), commit to provide to MMSA, through MSA, funding currently estimated to be up to R90 million.
- 32.2. The full and final funding requirement for the Paige Funding will be computed and confirmed as part of the Confirmatory Due Diligence, and the Asset Sales processes.

- 32.3. The first drawdown of the Paige Funding of R5 million has already been made to repay the Post Commencement Funding provided in terms of the R5 million deposit lodged by the offeror for the Soweto Cluster tailings dumps.
- 32.4. The second drawdown of the Paige Funding is anticipated to be R15 million, drawn down immediately at the commencement of Phase 2.
- 32.5. Thereafter it is anticipated that Paige shall provide MMSA with a facility to draw down up to a further (approximately) R70 million, such funding to be drawn down on an “as required” basis during Phase 2.
- 32.6. The Paige Funding shall be provided to MMSA as a shareholder loan, with usual terms and conditions for a loan of this nature.
- 32.7. MMSA shall be entitled to repay the drawn down facility from excess free cash flow if and when available.
- 32.8. The Paige Funding is to be applied to Mintails Group operations, with MMSA acting as the “banker” to group companies, to be used for the purposes of funding the business plan and settlements with Creditors.
- 32.9. Paige has provided the BRP with a letter of comfort to supply the Paige Funding, noting the recorded conditions to be met during Phase 1.**

33. Third Party Funding

- 33.1. MMSA shall secure a gold loan or other form of funding to fund the refurbishment of Gold Plant 2.
- 33.2. The Third Party Funding is anticipated to be in the amount of approximately R116 million, but will be subject to the outcomes of the Confirmatory Due Diligence and the Third Party Funding negotiations.
- 33.3. MMSA is in discussions with a financier introduced by Paige with regards to a proposed c.US\$8 million gold note to be provided by the financier.

- 33.4. MSA has agreed in principle to subordinate its group loans and the Paige Funding to the Third Party Funding.
- 33.5. The proposed Third Party Funding is anticipated to be drawn down in tranches, and will be repaid over an approximate three year period. The proceeds of the Third Party Funding will be used for the purposes of recommissioning Gold Plant 2.
- 33.6. A “soft commitment” for the Third Party Funding will be sought during Phase 1 by Moolman and the BRP.
- 33.7. Final documentation and draw down of the Third Party Funding will be achieved in Phase 2.
- 33.8. *Securing the “soft commitment” for the Third Party Funding to Paige’s satisfaction shall be one of the two conditions precedent to the progression of the Business Rescue Plan into Phase 2.***

34. Sale of Assets

- 34.1. Non-core assets identified by the BRP shall potentially be disposed of subject to the requirements of section 134 of the Act to provide working capital and fund creditor payments.
- 34.2. Asset sale proceeds will serve to lessen the required level of Paige Funding.
- 34.3. Asset sales will be dependent on the securing of buyers at appropriate values.
- 34.4. The assets potentially subject to sale will include:
- 34.4.1. Witfontein properties:
- 34.4.1.1. properties have been valued at up to R40 million;

34.4.1.2. an offer has been received from resident farmers of R21 million (but not accepted);

34.4.1.3. an agent has been appointed and is actively marketing the properties;

34.4.1.4. completion of the sale during Phase 1 may be possible, but the sale process may roll into Phase 2.

34.4.2. 100 million tons of gold bearing tailings (the “Soweto Cluster” tailings dumps);

34.4.3. excess elution plant;

34.4.4. portions of the Luipaardsvlei Property; and

34.4.5. bulk aggregates.

34.5. The aim of this asset sale exercise is to realise cash from non-core assets to provide funding depth for Mintails’ operations, thereby reducing the required level of Paige Funding and any financial fluctuation risks in the Business Rescue Plan.

35. Gold Plant 1

35.1. The continued operation of Gold Plant 1 is core to the Business Rescue Plan. The 10 year operational plan provides for the following:

35.1.1. Optimisation capex spend on Gold Plant 1 during Phase 2:

35.1.1.1. current rough estimate R20 million, to be spent in months 1 – 4 of Phase 2, spend and targets to be firmed up during Phase 1.

35.1.2. CIL Plant 1 forecast to operate at an average of c.90% of capacity:

35.1.2.1. 90% of 150,000 tons per month (“**tpm**”) = 135,000 tpm.

- 35.1.3. Ball mills forecast to operate at an average of 85% of capacity:
 - 35.1.3.1. 85% of 90,000 tpm = 76,500 tpm.

- 35.1.4. CMD gold bearing ore throughput in Gold Plant 1 variable monthly per current CMD mine plans:
 - 35.1.4.1. toll fee = 0.59g Au per ton of ore processed (per current arrangements);
 - 35.1.4.2. period of supply = 41 months;
 - 35.1.4.3. average supply = 10,200 tons per month.

- 35.1.5. Toll client gold ore throughput in Gold Plant 1 variable monthly per forecasts:
 - 35.1.5.1. toll fees variable per contracts;
 - 35.1.5.2. period of supply = 30 months;
 - 35.1.5.3. average supply = 46,700 tons per month.

- 35.1.6. D-shaft gold ore throughput in Gold Plant 1 forecast at 1,300 tpm per current mine plans:
 - 35.1.6.1. average grade @ 3.3 g/t;
 - 35.1.6.2. 90% recovery in CIL plant;
 - 35.1.6.3. period of supply = 5 months.

- 35.1.7. tailings throughput in Gold Plant 1 forecast variable to top up Gold Plant 1 usage:

- 35.1.7.1. grades variable @ c.0.32 g/t depending on source, residue @ 0.15g/t.

36. Hard Rock Ores

- 36.1. The financial modelling underpinning the Business Rescue Plan assumes that Gold Plant 1 reverts to 100% tailings after the expiry of the CMD and toll gold ores (see above).
- 36.2. However, recognising that the processing of higher grade hard rock ores is (all things being equal) typically more profitable than processing lower grade tailings, it would be preferable to find alternative sources of higher grade hard rock ores to be processed in Gold Plant 1.
- 36.3. In this regard, an exploration budget of R100,000 per month has been provided for in the financial modelling underpinning the 10 year plan. The aim of this exploration program will be to secure further pockets of exploitable hard rock ores from MSARC's existing MR132 and MR133 mining rights. A geological exploration program for this exploration is being finalised.
- 36.4. Furthermore, MMSA management is actively seeking other toll, joint venture or acquisition hard rock gold bearing ores to be secured in the area and has already made some considerable progress in this regard. While there have been significant expressions of interest from prospective Toll clients, it is noted that this is a highly volatile source of feedstock, which can change materially due to external factors.

37. Gold Plant 2

- 37.1. Gold Plant 2 is currently in care and maintenance. A detailed technical analysis, originally styled as a bankable feasibility study ("BFS"), for the re commissioning of the plant had been in process for some considerable time prior to the Commencement Date. The BRP thus engaged the existing consultants to complete the BFS.
- 37.2. The technical team appointed and engaged by Paige has reviewed the plant and the BFS and have confirmed to Paige their positive assessment of the viability (technical and financial) of Gold Plant 2, subject only to the Confirmatory Due Diligence.

37.3. The final revised plan for the rebuilding and recommissioning of Gold Plant 2 shall be therefore be subject to the outcome of the Confirmatory Due Diligence exercise and securing the Third Party Funding arrangements. Prior to any amendments arising in respect of the Confirmatory Due Diligence, the financial modelling which underpins the 10 year plan in respect of Gold Plant 2 contemplates the following:

37.3.1. rebuild capex spend on Gold Plant 2:

37.3.1.1. commences in Phase 2;

37.3.1.2. total spend of R116 million using the proceeds of the Third Party Funding;

37.3.1.3. spent over 6 months;

37.3.1.4. production ramping up over the next six months before reaching capacity.

37.3.2. CIL Plant 2 forecast:

37.3.2.1. throughput average of 354,780 tons per month;

37.3.2.2. feedstock grades variable @ c.0.31 g/t, depending on source;

37.3.2.3. residue @ 0.15 g/t.

37.4. The recommissioning of Gold Plant 2 is key to the rescue and longevity of the Mintails Group. Gold Plant 1 currently more or less covers the full overhead cost structure of the Mintails Group. The restructuring of the holding company structure will result in lowered costs, and the management changes and optimisation spend on Gold Plant 1 are anticipated to increase the contribution of Gold Plant 1 marginally. Gold Plant 2 operating profit should therefore have very limited, if any, overheads to cover, and thus create financial stability and meaningful profitability for the Mintails Group.

38. Rehabilitation Proposals

- 38.1. The manner in which environmental rehabilitation is to be dealt with is a critical component of the Business Rescue Plan. The Mintails Group's rehabilitation liabilities have remained largely unfunded for some time, and there are simply no free funds available to the BRP to enable him to immediately provide such funding as a bank deposit (c.R300 million) or a full guarantee. To do so would make the Mintails Group uneconomic and the Business Rescue Plan unachievable.
- 38.2. The BRP has therefore developed and proposed to the DMR a practical mining rehabilitation approach for the Mintails Group with a concession to allow for the rehabilitation to be effected over the life of mine (c.20 years), and for a "holding" guarantee to be provided to the DMR. This allows for the spreading and moderation of the cost over a period. The regional DMR has been exceptionally supportive of the rescue of the Mintails Group and has approved the BRP's rehabilitation proposal for the Mintails Group.
- 38.3. The BRP approved Golder Associates to conduct its "Closure Plan and Associated Closure Costing" report (the "**Golder Report**"), with the report having been received in February 2016. The concept of "Closure Mining" in the areas over which the Mintails Group undertakes its mining operations provides for the landscape to be rehabilitated in a manner that leaves it available for more valuable social and economic use post-mining.
- 38.4. The Golder Report estimates the total rehabilitation costs on "unscheduled" premature mine closure to be R259m, and on "scheduled" final closure to be R56m (both figures are exclusive of VAT).
- 38.5. The BRP's rehabilitation proposal, accepted in principle by the DMR, is broadly as follows:

38.5.1. Open pit/void closure:

38.5.1.1. a commitment by the Mintails Group to fill a net 19,000 cubic metres of voids per month (i.e. backfill mined volume monthly plus fill an additional 19,000 cubic metres per month);

38.5.1.2. estimated spend over twenty year period of c.R125 million.

38.5.2. Closure to completed mining areas:

38.5.2.1. estimated spend over twenty year period of c.R24m.

38.5.3. Existing rehabilitation funding/final closure guarantee:

38.5.3.1. existing rehabilitation funds in trust are c.R26 million;

38.5.3.2. proposed additional guarantee to be provided by the Mintails Group to the DMR is c.R32 million;

38.5.3.3. the total guarantee provided to the DMR will therefore be c.R58 million (R32m+R26m).

38.5.4. Tailings reclamation mining:

38.5.4.1. as part of normal operations once Gold Plant 2 has been refurbished, tailings clearing from existing dumps will be c.400,000 tons per month;

38.5.4.2. West Wits Pit void filling will also be conducted at c.400,000 tonnes per month once Gold Plant 2 has been refurbished;

38.5.4.3. The above are included normal budgeted operating costs for the Mintails Group.

38.6. The additional guarantee will be secured during Phase 1, conditional on commencing Phase 2, and this and the balance of the Business Rescue Plan plans will be fully operational from the commencement of Phase 2.

38.7. The Paige Funding has been secured, and the Third Party Funding will be secured, by the BRP predicated on the Rehabilitation Proposals having been approved by the DMR.

39. The CMDC Offer

39.1. The published (13th February 2015) and approved CMD business rescue plan (the “**CMD Plan**”) provided that “*MMSA and [MSARC] ... make available to the [CMDCs] the hard rock open cast pits owned by [MSARC] to mine for [the CMDCs] account*”. The CMD Plan therefore provided for the cession by MSARC of the operation and economic costs and benefits of its open pit mining assets to the CMDCs. In a practical sense, this has been done over the past 18 months.

39.2. The CMD Plan has not, unfortunately, worked out as was anticipated at the time that it was formulated.

39.3. The business rescue practitioners of CMD proposed informally to the BRP that the CMDC’s would be willing to settle for a payment of R30 million. In the circumstances the BRP has, with the approval of Paige and MSA, taken the opportunity to structure a solution which resolves the CMD situation for the CMDCs, cleans up the financial and operating structure of CMD, terminates the CMD Plan, and brings the CMD business rescue proceedings to an end.

39.4. The offer (the “**CMDC Offer**”) extended to CMD and the CMDCs in terms of this Business Rescue Plan is therefore as follows:

39.4.1. MMSA shall acquire the CMDC’s claims against CMD for the full R127m in consideration for cash payments of R30 million plus interest to be made to the CMDCs in instalments as provided for in clause 39.6 below (the “**CMDC Cash Payment**”) and a potential participation by the CMDCs in the future profits of the Mintails Group as provided for in clause 39.7 below (the “**CMDC Profit Share**”);

39.4.2. the project funding advanced to CMD by MMSA in support of the execution of the CMD Plan, being c.R34.1 million as at 30th September 2016, shall remain as

an intergroup loan for as long as there is any balance outstanding in respect of the CMDC Cash Payment;

39.4.3. the rehabilitation liabilities which have arisen in the execution of the CMD Plan, being R36.5million as at 30th September 2016, shall be absorbed into the future CMD and Mintails Group operations;

39.4.4. MMSA shall pledge and cede to the CMDC's, as security for its obligations in respect of the CMDC Cash Payment and the CMDC Profit Share, all rights, title and interest in respect of the R127 million of claims against CMD that it will acquire from the CMDCs in terms of this Clause 39;

39.4.5. the business rescue creditors of CMD (including the CMDCs) shall approve an amended business rescue plan (the "**Revised CMD Plan**"), drafted to the satisfaction of the BRP, which plan will contemplate (*inter alia*):

39.4.5.1. the termination of the CMD Plan;

39.4.5.2. the acceptance of the CMDC Offer as set out in this clause 39; and

39.4.5.3. the termination of the business rescue proceedings of CMD as soon as the CMDC Offer becomes unconditional in terms of Clause 39.5 below.

39.5. The CMDC Offer shall be conditional on:

39.5.1. the approval and adoption of the MSARC Business Rescue Plan at the meeting of the Creditors of MSARC referred to in clause **Error! Reference source not found.** and **Error! Reference source not found.**;

39.5.2. the amendment of the MMSA Business Rescue Plan (approved and adopted at the meeting held on 4th November 2016) to the extent necessary to accommodate the amendments to the CMDC Offer set out in this Business Rescue Plan;

- 39.5.3. the approval and adoption of the Revised CMD Plan by 31st January 2016;
 - 39.5.4. the documentation of the pledge and cession noted in clause 39.4.4;
 - 39.5.5. the documentation of the MSA undertaking provided in clause 40.1.5.1; and
 - 39.5.6. the commencement of Phase 2 of this Business Rescue Plan.
- 39.6. Once the CMDC Offer has been accepted and becomes unconditional in terms of clause 39.5 above, MMSA shall acquire the CMDC's claims against CMD for the full R127m (which claims are then ceded and pledged in the manner contemplated in clause 39.4.4) and the **CMDC Cash Payment** shall be settled as follows:
- 39.6.1. the R30 million CMD Cash Payment obligation would immediately be crystallised and would begin to attract interest at 10% per annum, which interest (initially R250,000 per month) would be paid monthly in arrears by MMSA to the CMDCs;
 - 39.6.2. from the month immediately following the month in which Gold Plant 2 reaches its "**Target Output**", the R30 million CMD Cash Payment obligation (with interest continuing to accrue and be paid monthly) would be met by MMSA in payments of at least R1 million per month to the CMDCs payable on or before the last day of each month; and
 - 39.6.3. Target Output is defined as Gold Plant 2 achieving a throughput of an average of at least 350 000 tons per month of tailings over a consecutive period of 3 months, achieving a net recovered grade of at least 0.16g/ton of gold from tailings processed.
- 39.7. Once the CMDC Offer has been accepted and becomes unconditional in terms of clause 39.5, the CMDCs shall be entitled to receive the **CMDC Profit Share** as follows:
- 39.7.1. if MMSA on a consolidated basis achieves audited after tax profits of at least R100 million for the financial year ended 30th June 2019, and MMSA (as the Mintails Group banker) has accumulated cash reserves of at least R120 million

on average over any three month consecutive period during that financial year (equivalent to approximately three months' cash operating costs), then the CMDCs (in proportion to their respective claims against MMSA) shall be entitled to receive a profit share payment calculated at 10% of the 2019 audited after tax profits, capped at a maximum of R15m. For the avoidance of doubt it is noted that audited after tax profits shall be calculated exclusive of any non-cash adjustments made to plant and/or mineral resource carrying values;

39.7.2. any CMDC Profit Share, once due, shall be paid within one calendar month of the approval of the audited accounts of MMSA for the financial year ended 30th June 2019.

39.8. Once the CMDC Offer is unconditional in terms of clause 39.5, and the business rescue costs of CMD have been settled in full through a continuation of the current MMSA funding facilities, the CMD business rescue proceedings in accordance with the Revised CMD Plan shall be terminated.

39.9. Until such times as the CMDC Offer becomes unconditional in terms of clause 39.5, or if the CMDC Offer is not accepted, the status quo with regards to the current CMD Plan and the CMDCs shall remain in place.

39.10. In the event that the CMDC Offer is not accepted and/or the business rescue practitioners of CMD elect not to exercise CMD's creditor voting entitlement in favour of the MSARC Business Rescue Plan, the BRP will continue to pursue his action on behalf of MMSA in terms of section 133(1)(b) of the Act for leave to bring an application as contemplated in section 132(2)(a)(ii) of the Act (i.e. seeking the liquidation of CMD).

40. Settlement with Creditors

40.1. MMSA

40.1.1. Creditors falling under the business rescue proceedings of MMSA are currently comprised of:

Preferent creditor

R 0.02 million

Group Claims	R 643.4 million
Trade creditors	R 7.2 million
Total	R 650.6 million

40.1.2. The PWC Liquidation report for MMSA calculates that, in the event of the immediate liquidation of MMSA, the approximate dividend that would have been payable to MMSA concurrent Creditors was **11.1 cents** in the Rand (**11%**).

40.1.3. In terms of the Business Rescue Plan:

40.1.4. Preferent claim: MGSA will settle this Claim in full in six equal monthly instalments commencing 30 days after the commencement of Phase 2;

40.1.5. Group Claims: Group creditors, and in particular shareholder MSA, will waive their right to any immediate repayment;

40.1.5.1. MSA has in addition undertaken to the BRP that it will waive its rights to receive any capital or interest payment on its R534.88 million claim against MMSA if and for so long as MMSA is at any time not current and up to date with its payments to (i) MMSA trade creditors (as provided for in clause 40.1.6), (ii) MGSA trade creditors (as provided for in clause 40.2.4.4), (iii) MSARC trade creditors (as provided for in clause 40.3.4.3) and/or CMDCs (as provided for in clause 39), and it has not made at least one payment of R1 million to CMDCs as provided for in clause 39.6.2.

40.1.6. Trade creditors: the claims that the independent concurrent trade creditors hold against MMSA will be compromised by 30% of their face value, creditors will then receive the residual 70% of the face value of their claims (the “**70% Payment**”) plus the “**Contingent**

Payment” (see below), to be settled in terms of the **“Creditor Program”** as set out below in clause 40.4.

40.2. MGSA:

40.2.1. Creditors falling under the business rescue proceedings of MGSA are currently comprised of:

Guaranteed obligations	R 99.7 million
Preferent creditor	R 0.3 million
Group claims	R 254.7 million
Trade creditors	R 69.8 million
Total	R 424.5 million

40.2.2. The PWC Liquidation report for MGSA calculates that, in the event of the immediate liquidation of MGSA, the approximate dividend that would have been payable to MGSA concurrent creditors was **3.2 cents** in the Rand (**3%**).

40.2.3. The trade creditors above include an amount of c.R20 million owing to SARS, against which Claim MGSA has lodged an objection (the **“SARS Claim”**).

40.2.4. In terms of the Business Rescue Plan:

40.2.4.1. Guaranteed obligations: MSA has waived its right to immediately claim against its guarantee secured by a special notarial bond over certain of the plant and equipment of MGSA;

40.2.4.2. Preferent claim: MGSA will settle this Claim in full in six equal monthly instalments commencing 30 days after the commencement of Phase 2;

40.2.4.3. Group claims: Group creditors, and in particular MMSA, will waive their right to any immediate repayment ; and

40.2.4.4. Trade creditors: In exchange for a claim for the same amount against MGSA, MMSA will assume liability for the claims that the independent concurrent trade creditors hold against MGSA for 70% of their face value (the “**70% Payment**”) plus the “**Contingent Payment**” (see below), which payment obligations will be settled by MMSA in terms of the “**Creditor Program**” as set out below in clause 40.4.

40.3. MSARC

40.3.1. Creditors falling under the business rescue proceedings of MSARC are currently comprised of:

MMSA Claim	R 291.9 million
CMD Claim	R 185.0 million
Trade creditors	R 5.0 million
Hire purchase agreements (secured)	R 1.5 million
Total	R 483.4 million

40.3.2. In addition to the above, MSARC’s balance sheet as at 30th June 2016 shows a contingent liability of **R202 million** relating to environmental rehabilitation costs.

40.3.3. The PWC Liquidation report for MSARC calculates that, in the event of the immediate liquidation of MSARC, the approximate dividend that would have been payable to MSARC concurrent creditors was **1.4 cents** in the Rand (**1%**).

40.3.4. In terms of the Business Rescue Plan:

40.3.4.1. MMSA Claim: MMSA shall waive its right to any immediate repayment;

40.3.4.2. CMD Claim: Either:

- 40.3.4.2.1. if the CMDC Offer is accepted and the CMDC Offer becomes unconditional, the CMD business rescue proceedings will terminate, and CMD shall waive its right to any immediate repayment; or
- 40.3.4.2.2. the status quo shall remain and CMD, CMDCs, MSARC and the CMD Claim shall continue to be subject to the terms and conditions implicit in the CMD Plan;
- 40.3.4.3. Trade creditors: In exchange for a claim for the same amount against MSARC, MMSA will assume liability for the claims that the independent concurrent trade creditors hold against MSARC for 70% of their face value (the “**70% Payment**”) plus the “**Contingent Payment**”, which payment obligations will be settled by MMSA in terms of the “**Creditor Program**” as set out below in clause 40.4;
- 40.3.4.4. Hire purchase agreements: the secured hire purchase agreements will continue to operate and monthly repayments will continue to be met in terms of the original agreement terms and conditions; and
- 40.3.4.5. Contingent Liability: The rehabilitation obligations of MSARC shall be discharged in accordance with the Rehabilitation Undertakings set out in clause 38.

40.4. “Creditor Program”

- 40.4.1. MMSA shall compromise the independent trade creditor claims of MMSA by 30% and shall assume liability to pay the independent trade creditor claims of MMSA, MSARC and MGSA for 70% of their face value (together being the “**Adjusted Claims**”).

- 40.4.2. MMSA shall settle the Adjusted Claims by way of “**70% Payments**” and “**Contingent Payments**” in accordance with this Creditor Program in full and final settlement with the respective Creditors.
- 40.4.3. The 70% Payments, being 70% of the original Claims of Creditors, shall be met by MMSA in 36 equal monthly cash payments of c.R1.6 million (in aggregate), made to Creditors pro rata to their Claims, commencing from the end of the first month of Phase 2.
- 40.4.4. Interest shall accrue only in respect of any late payment of 70% Payments to Creditors by MMSA, such interest accruing at the SA (Rand) Prime Rate until settlement.
- 40.4.5. If and to the extent that MGSA is successful in its objection against the c.R20 million SARS Claim against MGSA, and no other corresponding Claims for the pre-Commencement period are made by SARS:
- 40.4.5.1. any net savings achieved in respect of the SARS Claim shall be transferred pro rata to all remaining Creditors in the Creditor Program (the “**Contingent Payments**”);
- 40.4.5.2. Contingent Payment will be made to remaining Creditors in the same manner and under the same conditions as 70% Payments – 36 equal monthly cash payments commencing from the end of the first month of Phase 2 – in effect increasing the monthly payment received by each Creditor participating in the Creditor Program;
- 40.4.5.3. for illustrative purposes, if the SARS Claim were to be fully extinguished in terms of the MGSA objection thereto, independent trade creditors would in effect receive payments (70% Payments and Contingency Payments in aggregate) equal to c.93% of their initial Claims.
- 40.4.6. For the avoidance of doubt it is recorded that the arrangements and undertakings in this clause are entirely separate from and do not apply to those embedded in the CMDC Offer.

41. Transaction costs

41.1. Transaction costs to be incurred subsequent to the approval and adoption of the Business Rescue Plan are currently estimated to be c.R1.3 million for each of the Companies. This is an estimate and has been broadly calculated as follows:

41.1.1. business rescue ongoing costs, BRP contingency fees and advisor fees R1 million;

41.1.2. Other professional fees (legal, tax, structuring, and other advisors) R0.3 million.

42. Inter-conditionality

42.1. The adoption of the business rescue plan of MMSA shall be conditional on the approval and adoption of the business rescue plan of MGSA [note – both of these plans have now been approved and adopted].

42.2. The adoption of the business rescue plan of MGSA shall be conditional on the approval and adoption of the business rescue plan of MMSA [note – both of these plans have now been approved and adopted].

42.3. The adoption of the business rescue plan of MSARC (as provided for in this Business Rescue Plan) shall be conditional on the approval and adoption of the business rescue plans of both MMSA and MGSA [note –the plans of both MMSA and MGSA have now been approved and adopted].

42.4. In the event that the MMSA and MGSA business rescue plans are approved and adopted, but the MSARC business rescue plan is not approved and adopted, the MMSA and MGSA business rescue plans shall be implemented as envisaged for those Companies in this Business Rescue Plan, and MMSA shall instruct the BRP to prepare and publish a revised plan for MSARC and take such other steps as may be appropriate in the circumstances.

42.5. In the event that the MSARC business rescue plan is not approved and adopted, the clauses in this Business Rescue Plan that expressly or by necessary implication deal with matters pertaining to the business rescue Proceedings of MSARC and which are not expressly or by necessary implication necessary to deal with matters pertaining to the business rescue Proceedings of MMSA and MGSA, shall be of no force and effect (and rendered *pro non scripto*) in respect of the approved and adopted rescue plans of MMSA and MGSA.

43. Benefits of adopting the Business Rescue Plan

43.1. The Act requires that the Business Rescue Plan sets out the benefits of adopting the Business Rescue Plan as opposed to the benefits that would be received if the Companies were to be placed into liquidation.

43.2. As has been recorded elsewhere in this Business Rescue Plan, the BRP has sought (in accordance with Section 7(k) of the Act) to maintain a balance between the rights and interests of all of the relevant stakeholders in the business rescue Proceedings and in this Business Rescue Plan. This clause therefore considers all such stakeholders.

43.3. The clauses below contrast the outcome of the Companies theoretically being placed into liquidation on the Commencement Date against the outcome of the Companies voluntarily entering into the business rescue Proceedings and having this Business Rescue Plan approved and implemented, taking into account the probable liquidation dividend computation set out in clause 16.

43.4. Liquidation of the Companies would have resulted in an immediate termination of the businesses of the Companies with negative consequences for all stakeholders, including creditors, suppliers, customers, employees, sub-contractors, SARS, regulators, local community, the State and shareholders.

43.5. This Business Rescue Plan by contrast provides for the continuation of the Companies, to the benefit of all stakeholders. The Business Rescue Plan (coupled with the initiatives completed prior to its adoption):

- 43.5.1. provides a credible basis for additional investment and loan funding to be made available to the Mintails Group;
- 43.5.2. strengthens the balance sheet of the Mintails Group, enhancing its technical solvency;
- 43.5.3. addresses the cash flow crisis which faced the Mintails Group at the Commencement Date, enhancing its commercial solvency;
- 43.5.4. strengthens the management team;
- 43.5.5. provides for the strengthening of the Boards;
- 43.5.6. provides a credible 10 year business plan;
- 43.5.7. strengthens the strategic positioning of the Companies through Gold Plant 1 enhancements, Gold Plant 2 rehabilitation and recommissioning, a clear feedstock strategy, a rehabilitation implementation plan, and funding support to deliver on the business plan.

The Business Rescue Plan therefore achieves the first stated aim of business rescue, being the maximisation of “*the likelihood of the company continuing in business on a solvent basis*” (Section 128(1)(b)(iii) of the Act).

43.6. Returns to Creditors

- 43.6.1. MMSA: In a liquidation scenario concurrent Creditors of MMSA would have been anticipated to receive **11.1 cents** in the Rand in respect of their Claims, in terms of the Business Rescue Plan all non-group concurrent creditors will receive at least **70 cents** in the Rand, and potentially more.

In terms of the Business Rescue Plan all Mintails Group creditors will retain their interests in their Claims against a more solvent and strategically secure entity.

43.6.2. MGSA: In a liquidation scenario concurrent Creditors of MMSA would have been anticipated to receive **3.2 cents** in the Rand in respect of their Claims, in terms of the Business Rescue Plan all non-group concurrent creditors will receive at least **70 cents** in the Rand, and potentially more.

In terms of the Business Rescue Plan all Mintails Group creditors will retain their Claims against a more solvent and strategically secure entity.

43.6.3. MSARC: In a liquidation scenario concurrent Creditors of MMSA would have been anticipated to receive **1.4 cents** in the Rand in respect of their Claims, in terms of the Business Rescue Plan all non-group concurrent creditors will receive at least **70 cents** in the Rand, and potentially more.

In terms of the Business Rescue Plan all Mintails Group creditors and the secured creditor will retain their Claims against a more solvent and strategically secure entity.

The DMR will receive the commitment of the Mintails Group to carry out the Rehabilitation Proposals as set out in clause 38. In a liquidation scenario these full liabilities would have reverted to the State.

43.6.4. The Business Rescue Plan therefore achieves the first half of the second stated aim of business rescue, being that it results in “a better return for the company’s creditors ...” (Section 128(1)(b)(iii) of the Act).

43.7. Returns to Shareholders

43.7.1. In a liquidation scenario shareholders would have received no value on their shares.

43.7.2. In terms of the Business Rescue Plan, the Companies will be returned to a state of commercial solvency and their strategic positioning will be significantly enhanced.

43.7.3. The Business Rescue Plan therefore achieves the second half of the second stated aim of business rescue, being that it results in “a better return for the company’s [creditors or] shareholders” (Section 128(1)(b)(iii) of the Act).

43.8. Employees

43.8.1. In a liquidation scenario all c.943 current employees and sub-contractors of the Mintails Group (including CMD) would lose their employment positions.

43.8.2. In the Business Rescue Plan scenario, retrenchment is not required and there is a reasonable likelihood of increased employment opportunities arising within the Companies.

43.9. Fees and Costs

43.9.1. The BRP submits that the entire costs of Business Rescue, constituted by the fees of the BRP and the costs of advisors in respect of the Business Rescue process, will be significantly lower than the equivalent costs should the Companies have been liquidated.

44. Creditors’ consideration of this Business Rescue Plan

44.1. As noted, the BRP is required to develop and implement a Business Rescue Plan in a manner that maximises the likelihood of the Companies continuing in existence on a solvent basis, **or** results in a better return for the Creditors than would result from the immediate liquidation of the Companies.

44.2. This Business Rescue Plan seeks to **both** secure a continued existence for the Companies on a solvent basis, **and** to give a substantially better return to Creditors than would result from an immediate liquidation.

44.3. The BRP recommends that the Business Rescue Plan should be assessed by each Creditor by considering, inter alia:

- 44.3.1. the timing and monetary value of the settlement of the Creditor's Claim as proposed in this Business Rescue Plan versus the estimated timing and monetary value of the settlement of the Creditor's Claim in a liquidation scenario;
- 44.3.2. the value to the Creditor of future business with the Companies on the assumption that the Companies are indeed rescued and continue to trade in a solvent manner;
- 44.3.3. the social and economic value of rescuing the Companies, its jobs, its exports, its dependent companies, its dependent communities and its taxes;
- 44.3.4. the positive impact on the environment of rescuing the Companies;
- 44.3.5. the likelihood of the Business Rescue Plan achieving these aims; and
- 44.3.6. the timeframe in which this Business Rescue will have been concluded from the Commencement Date until the anticipated Termination Date.

45. Interest on Claims

- 45.1. The Claims of Creditors shall bear no interest in the period from the Commencement Date until the Adoption Date.
- 45.2. The Adjusted Claims will bear no interest in the period from the Adoption Date until the date of settlement unless expressly provided otherwise in this Business Rescue Plan (see clause 40.4.4).

46. Effect of the Business Rescue Plan on employees

- 46.1. There have been no business rescue related retrenchments in the Companies during the business rescue Proceedings.

46.2. If this Business Rescue Plan is approved and implemented as envisaged then, all other things remaining the same, there will not be any requirement for job losses in any of the Companies related to the Business Rescue.

46.3. It is envisaged that up to 100 new employees will be engaged with the recommissioning of Gold Plant 2.

47. Effect of the Business Rescue Plan on shareholders

47.1. Noting that certain shareholders have sold their interests in MMSA independently of the business rescue Proceedings of that Company, and that replacement BEE shareholders will be introduced, there is not envisaged to be any direct impact on the shareholders of the Companies arising as a result of this Business Rescue Plan other than the return of the Companies to solvent trading.

48. Treatment of agreements

48.1. Other than as specifically provided for in this Business Rescue Plan, in particular in respect of the tolling agreements and the suspension of management fees, this Business Rescue Plan is not anticipated to have any material impact on the agreements to which the Companies are party to, as known by the BRP.

49. Nature and duration of the moratorium

49.1. In terms of the Act, the Business Rescue Plan must include the nature and duration of any moratorium for which the Business Rescue Plan makes provision.

49.2. The moratorium imposed by Section 133 of the Act in respect of any legal proceedings, including enforcement action, against a Company, or in relation to any property belonging to the Company or in its possession, shall remain in force until the Termination Date in respect of that Company.

PART C – ASSUMPTIONS, CONDITIONS AND GENERAL

50. Approval and adoption of the business rescue plan for each of the Companies

- 50.1. Within 10 business days of the Publication Date, the BRP is required in terms of S.151 of the Act to convene and preside over a meeting called for the purpose of considering this Business Rescue Plan. The S.151 meetings of the Companies were or have been scheduled for: MMSA on 4th November 2016, MGSA on 4th November 2016; and MSARC on 22nd December 2016.
- 50.2. At the S.151 Meeting the Creditors of the relevant Company will be invited to consider the Business Rescue Plan and to vote on the Business Rescue Plan in terms of the relevant Company.
- 50.3. the Business Rescue Plan in respect of an individual Company will be approved, in accordance with the provisions of the Act, if:
- 50.3.1. it is supported by the holders of more than 75% of that Company's Creditors' voting interests that are voted; and
 - 50.3.2. the votes in support of this Business Rescue Plan noted in clause 50.3.1 include at least 50% of that Company's independent Creditors' voting interests that are so voted.
- 50.4. The voting interests of Creditors, both full and independent, are provided in Schedule A1 for MMSA, Schedule A2 for MGSA and Schedule A3 for MSARC.
- 50.5. As this Business Rescue Plan does not envisage any alteration to the rights of the holders of any class of the Companies' securities (as contemplated in section 152(3)(c) of the Act),

the approval of the plan in accordance with clause 50.3 above will also constitute the final adoption of the plan in accordance with the Act.

51. The Effect of adoption of this Business Rescue Plan on Creditors

51.1. Following the adoption of this Business Rescue Plan for a Company, the BRP, having been authorised to do so by the holders of the requisite majority of the Creditors' voting interests of that Company, shall take the necessary steps, or require that the Company and the Companies (as the case may be) take such steps, to implement this Business Rescue Plan inasmuch as it applies to that Company.

51.2. In accordance with the Act, once the Business Rescue Plan for a Company has been approved, adopted and implemented in accordance with Chapter 6 of the Act, a Creditor of that Company is not entitled to enforce any debt owed by the Company as at the Commencement Date, except to the extent provided for in the approved, adopted and implemented Business Rescue Plan.

51.3. The BRP notes that the Act provides further that if the Business Rescue Plan has been adopted in accordance with the Act, it is binding on the Company, on each of the Creditors of the Company, and every holder of the Company's securities, whether or not such a person:

51.3.1. was present at the S.151 Meeting convened to approve the Business Rescue Plan for that Company;

51.3.2. voted in favour of adoption of the Business Rescue Plan for that Company; or

51.3.3. in the case of Creditors, had proven their Claims against that Company.

52. Conditions for this Business Rescue Plan to come into operation

52.1. For this Business Rescue Plan to come into operation in respect of **MMSA**:

- 52.1.1. it must be approved by the Creditors of MMSA and thereby be adopted in accordance with clause 50; and
 - 52.1.2. the Business Rescue Plan in respect of MGSA must be approved and adopted in accordance with clause 50.
- 52.2. For this Business Rescue Plan to come into operation in respect of **MGSA**:
- 52.2.1. it must be approved by the Creditors of MGSA and thereby be adopted in accordance with clause 50; and
 - 52.2.2. the Business Rescue Plan in respect of MMSA must be approved and adopted in accordance with clause 50.
- 52.3. For this Business Rescue Plan to come into operation in respect of **MSARC**:
- 52.3.1. it must be approved by the Creditors of MSARC and thereby be adopted in accordance with clause 50; and
 - 52.3.2. the Business Rescue Plan in respect of both MMSA and MGSA must be approved and adopted in accordance with clause 50 [this condition has now been met].

53. Substantial Implementation

- 53.1. Substantial implementation of an approved business rescue plan is considered to have occurred once all of the key deliverables or critical building blocks required for the successful implementation of the business rescue plan have been achieved, the risk of failure to fully implement the business rescue plan has been substantially mitigated, and on balance the risks versus the rewards supports the ending of the business rescue proceedings.
- 53.2. The BRP does not wish to burden the Companies for an extended period of time with the costs and commercial stigmas of the business rescue Proceedings, but equally would not

wish to terminate the protections of Chapter 6 until the risk of failure to fully implement the business rescue plan has been substantially mitigated for Affected Persons.

53.3. This Business Rescue Plan for the Companies, each viewed individually, shall be substantially implemented when the following conditions have been met or otherwise resolved to the satisfaction of the BRP:

53.3.1. the Paige Funding has been secured and drawdowns have commenced;

53.3.2. the Third Party Funding has been secured and drawdowns have commenced;

53.3.3. non-core asset sales to the extent required have been completed, or are procedurally on course to be completed;

53.3.4. the entry of the new BEE shareholders of the Mintails Group has been completed;

53.3.5. the new Boards of the Companies have been identified and appointed;

53.3.6. the implementation of the Rehabilitation Proposal has commenced;

53.3.7. the CMD Plan has been terminated or restructured to the satisfaction of the BRP;

53.3.8. payments to Creditors in terms of the Creditor Program have commenced.

53.4. In respect of each of the Companies, considering the matters relevant to that Company, when the BRP considers that the matters set out in clause 53.3 have been met or otherwise resolved to his satisfaction, as well as any other matters that the BRP considers may be appropriate in the circumstances, the Substantial Implementation of the Business Rescue Plan for that Company shall be deemed to have been achieved, and the BRP shall file a notice of substantial implementation with the CIPC in accordance with the Act whereupon the business rescue Proceedings of the Company will be terminated.

54. Circumstances in which the Business Rescue will end

- 54.1. The business rescue Proceedings will end in respect of a Company when (in addition to the other grounds set out in section 132(2) of the Act):
- 54.1.1. this Business Rescue Plan, as it applies to that Company, or any amended version of this Business Rescue Plan, has been approved by Creditors and duly adopted **AND** in the opinion of the BRP Substantial Implementation has been achieved for the Company **AND** the BRP has filed a notice of Substantial Implementation with the CIPC; or
 - 54.1.2. this Business Rescue Plan, as it applies to that Company, or any amended version of this Business Rescue Plan, has been rejected by Creditors and neither the BRP nor any Affected Person has acted to extend the Business Rescue proceedings in terms of the Act; or
 - 54.1.3. a court orders the conversion of the business rescue Proceedings of the Company into liquidation proceedings.
- 54.2. The date on which the Business Rescue proceedings of the Company ends in accordance with clause 54.1 above will be the Termination Date.

55. Amendment of the Business Rescue Plan

- 55.1. Should there be a need to amend this Business Rescue Plan at any time after the Adoption Date, the BRP shall be entitled to make such amendments in consultation with the Creditors.
- 55.2. Any amendments to the Business Rescue Plan which are deemed by the BRP to be material to the interests of the Creditors shall be voted on by the Creditors at a special Creditors' meeting convened by the BRP.
- 55.3. Voting at such a meeting shall be conducted in accordance with Clause 50.3.

56. Profit and loss accounts and balance sheets

- 56.1. Projected Mintails Group statement of income and expenses for the three years ending 30th June 2017, 2018 and 2019 have been compiled and are provided in Schedule D. These projected financial statements have been prepared on the basis that this Business Rescue Plan is fully approved, adopted and implemented. The BRP respectfully submits that such consolidated accounts for the Mintails Group comply with the requirements of section 150(2)(c)(iv)(bb) as being an appropriate basis on which to present this information.
- 56.2. A projected balance sheet for each of the Companies as at 30th September 2016 is provided in Schedule E. These projected financial statements have been prepared on the basis that this Business Rescue Plan is fully approved and implemented.
- 56.3. The projected financial statements assume, inter alia, that:
- 56.3.1. Gold Plant 1 is upgraded, Gold Plant 2 is recommissioned, the 10 Year operational plan comes into effect, the Paige funding is advanced, the Third Party Funding is advanced and the non-core property is disposed of; and
 - 56.3.2. Creditor claims and the balance sheets of the Companies have been restructured in accordance with this Business Rescue Plan.
- 56.4. For information purposes, the draft, unaudited financial statements of the Companies for the period ended 30th June 2016 have been included as Schedule F to this document.

57. Risks

- 57.1. The primary risks associated with this Business Rescue Plan are that:
- 57.1.1. any of the conditions set out in clause 53.3 are not achieved;
 - 35.1.1 Gold Plant 2 does not deliver the recoveries from the tailings that are anticipated (hence the Confirmatory Due Diligence);

- 35.1.2 the operations of the Mintails Group are materially disrupted by unanticipated political, geological, regulatory, local community, union or other activities; or
- 35.1.3 the Rand price of gold falls to a level that makes the operations of the Mintails Group uneconomic.

58. Late Proof of Claims

- 58.1. Any person with a potential claim which does not appear in Schedules A1 to A3, and/or any Creditor who/which disputes the Claim amount attributed to that Creditor in Schedules A1 to A3, is invited to submit that person's application to the BRP for that person's new or supplementary Claim to be approved as a Post-Adoption Date Claim and to be included in the implementation of the Business Rescue Plan.
- 58.2. The BRP will accept applications for Post-Adoption Date Claims to be approved at any time before 30th November 2016.
- 58.3. The BRP will promptly adjudicate on such applications and shall advise any such applicants of their approval or not of such applications before 15th December 2016.
- 58.4. Post-Adoption Date Claims which are approved by the BRP will be treated as Claims in accordance with this Business Rescue Plan.
- 58.5. The BRP's decision to approve, or not to approve, applications for Post-Adoption Date Claims shall be made entirely at the discretion of the BRP. The BRP shall make such decisions in good faith and based upon the evidence and representations relating to such claims made to him by the applicant and, if appropriate in the circumstances, the Companies.
- 58.6. Applications for Post-Adoption Date Claims to be approved will not be accepted after 30th November 2016.

59. Dispute resolution

59.1. Should a dispute occur between any of: the BRP; a Company or Companies; any Affected Person; and/or any other person, in relation to this Business Rescue Plan, and/or its interpretation, and/or its implementation, and/or the respective rights and obligations of the aforementioned persons in terms of this Business Rescue Plan, then the matter shall be referred to and decided by arbitration in accordance with this clause 59.

59.2. Arbitration between the parties shall be subject to the following terms and conditions:

59.2.1. there shall be one arbitrator who shall be, if the question in issue is:

59.2.1.1. primarily an accounting matter, an independent chartered accountant of not less than ten years' standing;

59.2.1.2. primarily a legal matter, a practising attorney or advocate of not less than ten years' standing; and

59.2.1.3. any other matter, a suitably qualified and independent person;

59.2.2. the appointment of the arbitrator shall be agreed upon between the parties, but failing agreement between them within a period of five Business Days after the arbitration has been demanded, the BRP shall be entitled to request the chairperson for the time being of the Arbitration Foundation of Southern Africa to make the appointment and, in making his appointment, to have regard to the nature of the dispute;

59.2.3. subject to the other provisions of this clause 59, each arbitration shall be submitted to and determined by arbitration in accordance with the Commercial Arbitration Rules of the Arbitration Foundation of Southern Africa (as amended), and the costs of any such arbitration shall be determined by the arbitrator as part of his or her finding;

59.2.4. the decision of the arbitrator shall be final and binding on the parties concerned, and may be made an order of any Court of competent jurisdiction.

59.3. The provisions of this clause 59 shall not preclude any Party from approaching any Court with the relevant jurisdiction and authority for urgent and/or interim relief pending the outcome of an arbitration in terms hereof or in respect of arbitration proceedings in terms hereof.

60. Governing law and jurisdiction

60.1. This Business Rescue Plan shall in all respects be governed by and construed in accordance with the law of South Africa, exclusive of any conflicts of law principles that could require the application of any other law, and all disputes, actions and other matters in connection therewith shall be determined in accordance with such law.

60.2. Subject to clause 59, the courts of South Africa shall have non-exclusive jurisdiction to settle any dispute arising out of or in connection with this Business Rescue Plan (including a dispute relating to the existence, validity or termination of this Business Rescue Plan or any non-contractual obligation arising out of or in connection with this Business Rescue Plan (whether in whole or in part)).

60.3. Nothing in this Business Rescue Plan shall prevent any Affected Party from seeking relief on an urgent or interlocutory basis from any Court with the relevant jurisdiction and authority.

61. Severability

61.1. Each of the provisions of this Business Rescue Plan shall be considered as separate terms and conditions and in the event that this Business Rescue Plan is affected by any legislation or any amendment thereto, or if the provisions herein contained are by virtue of that legislation or otherwise held to be illegal, invalid, prohibited or unenforceable, then any such provisions shall be ineffective only to the extent of the illegality, invalidity, prohibition or unenforceability and each of the remaining provisions hereof shall remain

in full force and effect as if the illegal, invalid, prohibited or unenforceable provision was not a part hereof.

62. Disclaimer

62.1. The BRP in the preparation of this Business Rescue Plan has relied on information obtained from the books and records of the Companies, meetings held with relevant persons including the Companies' directors, management, staff, Auditors, suppliers, customers, advisors and other service providers of the Companies, and studies and reports commissioned from various technical and other professional advisors in connection with the affairs of the Companies.

62.2. Whilst the BRP has made certain efforts to ensure the accuracy of the information contained herein, it should be noted that the BRP's investigations have been limited in nature due to:

62.2.1. time constraints placed on practitioners by the Act;

62.2.2. pressure from Affected Persons to effect a reasonably paced rescue;

62.2.3. limited financial resources available to the Companies (and therefore the BRP);
and

62.2.4. the quality of certain of the records and affairs of the Companies.

62.3. The BRP has not carried out an audit of the Companies' documents, nor has he had adequate opportunity to independently verify all information provided to him by the Companies and/or third parties.

62.4. Neither the BRP nor any person engaged to assist in the Business Rescue process or in the production of this Business Rescue Plan undertake any responsibility in any way whatsoever to any person in respect of any errors in this Business Rescue Plan arising from incorrect information that may have been provided to them.

63. Practitioners certificate

63.1. I, David Arthur Charles Lake, being the BRP of the Companies and in accordance with the Act confirm that:

63.1.1. the information contained herein and upon which I have relied is based on information provided to me by the Companies, its advisors and persons related thereto (as is more completely set out in clause 62 above) and such information appears to me to be accurate, complete and up to date;

63.1.2. all projections provided herein are considered by me to be reasonable estimates made in good faith and on the basis of factual information and assumptions as set out in this Business Rescue Plan; and

63.1.3. subject to this Business Rescue Plan being approved by the Creditors in terms the Act, and duly implemented in accordance with this document, I believe that the Companies can be rescued.

Signed in Johannesburg on 13th December 2016

A handwritten signature in black ink, appearing to read 'David Lake', with a horizontal line underneath the name.

Dave Lake

(in his capacity as Business Rescue Practitioner)

SCHEDULES

- A: Creditors and voting interests**
 - A1: MMSA**
 - A2: MGSA**
 - A3: MSARC**
- B: Costs treated as Business Rescue Costs**
 - B1: MMSA**
 - B2: MGSA**
 - B3: MSARC**
- C: Probable liquidation dividend**
 - C1: MMSA**
 - C2: MGSA**
 - C3: MSARC**
- D: Profit and loss projections**
- E: Balance sheet projections**
 - E1: MMSA**
 - E2: MGSA**
 - E3: MSARC**
- F: 2016 unaudited accounts**
 - F1: MMSA**
 - F2: MGSA**
 - F3: MSARC**
- G: Extracts from the BRP's Engagement Agreement**