INDALO
BUSINESS RESTRUCTURING

ORTHOTOURCH (PTY) LTD (IN BUSINESS RESCUE)

REGISTRATION NUMBER: 2010/004096/07)

BUSINESS RESCUE STATUS REPORT IN TERMS OF SECTIONS 132 AND 141 OF THE COMPANIES ACT, 71 OF 2008 READ WITH REGULATION 125 OF THE COMPANIES ACT FILED BY THE BUSINESS RESCUE PRACTITIONER L MPAKATI ("BRP")

1. Status of the Business Rescue proceedings:

2.1 The Companies Act 71 of 2008, as amended, and more specifically section 132(3) thereof, provides that where a company's business rescue proceedings have not ended within three months after the start of those proceedings, the practitioner must prepare a report on the progress of the business rescue proceedings and update it at the end of every subsequent month until the end of those proceedings. The report must be delivered to all affected persons.

2. BUSINESS RESCUE PROCEEDINGS:

2.2 Commencement of Business Rescue: 7 November 2019

2.3 Appointment Business Rescue Practitioner (BRP) – J du Toit: 14 November 2019

2.4 First Meeting of Employees: 27 November 2019

2.5 First Meeting of Creditors: 28 November 2019

2.6 Business Rescue Plan filing date: 31 March 2020

2.7 Special creditors meeting: 10 January 2023

2.8 Claim Registration Site Live on: 1 February 2023

2.9 Registration for the meeting closed on 21 March 2023

2.10 2nd Creditors meeting: 31 March 2023

2.11 Business Rescue Plans Approved: 31 March 2023

2.12 Creditor Claim Affidavit Submission extended to 29 February 2024 (approximately 2 316 claims have been received to date, inclusive of the additional late submissions, which have been received with a reason as to why submission is late). This date was the final date, and no further claims were accepted after 29 February 2024.

3. BUSINESS PROGRESS

3.1 **Continuance of the Business rescue**

3.1.1 L Mpakati was appointed on 08 April 2025 as a business rescue practitioner of the company replacing Jacques Du Toit.

3.1.2 L Mpakati is in the process of verifying the received claims to get them ready for the payment of the dividend as per the Adopted business rescue plan.

3.2 **Properties**

3.2.1 An independent management company was appointed to oversee the remaining properties, and this has already increased monthly income. We continue to engage with them regarding the running of the properties and the collection of rental income.

3.3 **Proposer Involvement**

3.3.1 As per the approved Business Rescue Plan, the investor/creditor (once the Valid Claim has been proved) will receive **5 cents in the rand** as a cash payment over and above any repayments received during the investment period.

3.3.2 The online portal whereby the investor/creditor is able to obtain information surrounding the submission of their claim can be accessed from the following link: https://orthotouch.creditorsinfo.org/

3.3.3 This is the same online portal that was used for the voting process regarding the Amended Draft of the Business Rescue Plan, but it has now been amended since the main activity at this stage is the submission and proof of claims.

3.3.4 Notifications with instructions on how to proceed have continuously been issued to all creditors, and reference is made to the link as stated above for further detailed information.

3.3.5 An agreement has been reached with the Proposer regarding the terms and conditions of the payment to the investor/creditor.

3.4 **Business Rescue Plan and Process**

3.4.1 Since the declarator judgement was received, a revised BR Plan was finalised, redrafted, and voted upon at the 2nd creditors' meeting on 31 March 2023.

3.4.2 Such revised BR Plan was approved by the majority of the creditors (88.7% voted in favour of the Plan).

3.4.3 A Notice of adoption was sent to all affected parties as well as placed on the website.

3.4.4 Once the creditors' claims have been vetted, they will be repaid via a cash payment as an EFT to the creditor's bank account, as proved by the claim documents.

3.5 **Auditing**

3.5.1 As previously stated, we are permanently engaging with the auditor to finalise the financial statements. All Management accounts for Orthotouch are in the process of being completed, which will assist the auditors in completing the AFS for both Orthotouch and Zephan.

3.5.2 A new auditing firm has been appointed as the auditors for the companies Orthotouch and Zephan. We have handed over the duties and information from the previous auditors to the new auditors.

3.5.3 To complete the AFS, many Intercompany loan accounts must be reconciled and verified. We are in touch with the auditors (old and new) to finalise this process.

3.5.4 We intend to finalise the AFS to date as soon as possible.

3.5.5 We have subsequently received financial information from 2008 to date from the new auditor. We are in the process of reviewing the information and engaging with the auditor, whereby the auditors are to reconcile the financial records against the bank accounts. The draft AFS received from the previous auditors appears to be incomplete, and the new auditors will rectify it accordingly.

3.5.6 The new auditors required a deposit to continue with the completion of the financials, which were paid.

3.5.7 We are currently engaging with SARS on this matter; however, we need to finalise all financials to date before we can file the AFS for Orthotouch and Zephan.

3.5.8 For both Orthotouch and Zephan to be updated, the shareholders and the connection to the shareholders also need to be updated as a group to finalise the intercompany loans and group entities in conjunction with the Companies.

3.6 **C. LITIGATION**

3.6.1 As advised in previous reports, certain attorneys persist with litigation in blatant disregard of the provisions of Chapter 6 of the Companies Act and the moratorium against legal action as regulated by Section 133 of the Companies Act. We are continuing to vigorously oppose and defend any legal action duly represented by the Companies' legal team where the rights of the creditors will be detrimentally affected.

3.6.2 Please note that litigation to defend these matters is expensive and a waste of Business Rescue funds, which are to be paid to the Creditors.

3.6.3 Cost Orders: It is imperative to note where court orders are given against applicants, such costs will be collected from the individuals or groups acting against Zephan and/or Orthotouch.

3.6.4 Please see the link to the updated **SECTION 145 NOTICE** dated 21 January 2025 for your information: 25-01-21.SECTION 145 NOTICE.pdf

3.6.5 The main matters at present are the following:

3.6.5.1 **9272/2020** - BJ Waxham & 4 others v Georgiou & 4 others (D97) Gauteng North High Court, PRETORIA. Court date: The matter was set down on 22 May 2025 before the honourable deputy justice Ledwaba. it was requested that the deadline for filing heads of argument be extended to 4 July 2025, to allow additional time for the newly involved legal representatives to familiarise themselves with the matter. Agreed timelines are as follows:

- 4 July 2025 – Respondents to file heads of argument.
- 31 July 2025 – Joint practice notes, joint chronology, and joint list of authorities to be filed.
- 20 to 22 October 2025 – Hearing to proceed during this period.

Attorneys for Applicants: Geyser & Coetzee Attorney. *Application for enforcement of Buyback agreements (Highveld 21 & 22)*

3.6.5.2 **93417/2019** – Smith & 11 others v Georgiou and 21 others (D98). Gauteng North High Court, PRETORIA. Court date: 3-7 March 2025. **Awaiting judgment**. Attorneys for Applicants: Theron & Partners. *Application for expansion of classes and contribution to cost*

3.6.5.3 **42334/2014** – Geldenhuys & 2 Others v Orth: otouch & 26 Others (D100). Gauteng South High Court, JOHANNESBURG. Court date**:** **Awaiting judgment**. Attorneys for Applicants: Theron & Partners. *Application for setting aside scheme of Arrangement*

3.6.5.4 **22357/2022** – RJ Black v J du Toit N.O. & 4 others (D159). Gauteng North High Court, PRETORIA. Court date: **Not allocated.** Attorneys for

Applicants: Ilze Eichstädt Attorneys. *Application for a claim of R1,2 million disputed interest payments*

3.6.5.5 **44345/2023** – PLG Affected Creditors & 2 others v Zephan & 2 Others (D173). Gauteng North High Court, PRETORIA. Court date**:** **Not allocated**. Attorneys for Applicants: Ilze Eichstädt Attorneys. *Application for liquidation of Zephan & Orthotouch*

3.6.5.6 **3201/2023** – Strauss & 1 other v Zephan & 16 others (D179). Free State High Court, BLOEMFONTEIN. Court date: **Not allocated**. Attorneys for Applicants: Theron & Partners. *Application for liquidation of Zephan*

3.6.5.7 **3202/2023** – Strauss & 1 other v Orthotouch & 16 others (D179). Free State High Court, BLOEMFONTEIN. Court date: **Not allocated**. Attorneys for Applicants: Theron & Partners. *Application for liquidation of Orthotouch*

3.6.5.8 **114798/2023** – Prinia Asset Management v Du Toit J N.O. & 2 others (D195). Gauteng Local Division High Court, JOHANNESBURG. Court date: **Not allocated**. Attorneys for Plaintiff: Couzyn Hertzog Horak Inc. *Summons for payment of R1,5 billion*

3.6.5.9 **11265/2024** – Amanaat Inv v Georgiou T N.o. & 2 Others (D209) KwaZulu Natal High Court, DURBAN. Court date: **Action is not allocated**. Attorneys for Plaintiff: Schoerie & Sewgoolam. *Summons for repayment of R66 million. Counterclaims in the amount of R60 million and R160 million have been filed by Zephan*

3.6.5.10 **11265/2024** – Zephan v Amanaat Inv & 2 Others (D216). KwaZulu Natal High Court, DURBAN. Court date: Urgent application is set down for 5 December 2024 Attorneys for Plaintiff: Johan Victor Attorneys / Litigators for the Applicant. *Urgent Interdict application for the ratification of the Share Register of the subsidiaries of Amaanat Investment Holdings Limited to reflect that Zephan Properties (Pty) Ltd (in business rescue) as the owner thereof*

On **18 September 2024**, Amaanat Investment Holdings Ltd. issued an action in which Zephan is cited as the second defendant. The matter is defended by Zephan and a Plea and Counterclaim has been filed. An urgent interlocutory interdict application, set down to be heard on **5 December 2024**, has been served on **20 November 2024**. The relief sought for the ratification of the Share Register of the subsidiaries of Amaanat Investment Holdings Limited to reflect that Zephan Properties (Pty) Ltd (in business rescue) as the owner thereof. If successful, this application will be beneficial to all the creditors. The Application is opposed by Amaanat Investment Holdings Limited. **The urgent application has been withdrawn**

This matter appears to have reached a dead end. The respondents' attorneys of record have taken steps to secure a taxation date for their bill of costs

3.6.5.11 **13891/2024** – Orthotouch v Olympic Park Trading 29 (Pty) Ltd & other. Limpopo High Court, POLOKWANE. Court Date: Urgent application for the transfer of properties is set down for 28 January 2025. **Orthotouch withdrew the application**.

Attorneys for the Respondents: Pagel Schulenburg Inc & Cooper & Associates Inc. The matter is opposed and will be postponed to a further date**.**

3.6.5.12 **2025-017470** - Orthotouch (Pty) Ltd (In Business Rescue) & Other // Lakeview Trading (Pty) Ltd & Other. *Gauteng High Court, PRETORIA. Attorneys for Plaintiff: Johan Victor Attorneys / Litigators for the Applicant. Summons for transfer of properties and recovery of funds.* **Orthotouch withdrew the application**

3.6.6 **The "Black Application"** This application concerns a group of creditors who are seeking to attach funds held by the receiver in the previous Scheme of Arrangement. R1,2 million in such funds are currently under my control in an investment trust account held by attorneys. We are opposing such an application because I believe that the funds belong to ALL creditors, not only a small portion of them. On 14 November 2023, the Applicant brought an application to amend the Notice of Motion. A copy of the Notice of Motion can be found in the Dropbox link below:

https://www.dropbox.com/scl/fo/awaqysrcp02s0g5uqdpzq/h?rlkey=s4ctlnw0azph99kcd19gsf2eq&dl=0. On the advice of counsel, we believe that we need to oppose the proposed amendment on the grounds set out in our Notice of Objections (link provided below). https://www.dropbox.com/scl/fi/2j7r92bdu7nl042gc6vkw/100.23-11-02.OBJECTIONS.pdf?rlkey=3bqqrp44au45j0q8weka1islp&dl=0. On 30 November 2023, we delivered a Notice of Intention to Oppose the application to amend the notice of motion. The Answering Affidavit and Replying Affidavit were respectively filed on 22 January 2024 and 30 January 2024. **We are awaiting a hearing date**.

3.7 **ORTHOTOUCH AND ZEPHAN CREDITORS CLAIMS:**

3.7.1 Approximately 2 316 claims (inclusive of the late claims) have been received.

3.7.2 All creditors were to submit their creditor claim affidavit and supporting documents by 31 July 2023. Instructions were shown at https://orthotouch.creditorsinfo.org/of/ortho/LoadClaims/, and claim forms could also be obtained at this site. Please note that the claims were to be submitted by email, as explained on the above website.

3.7.3 After 31 July 2023, creditors were to submit their claims to info@dtbbusinessrescue.co.za together with a strong motivation as to why the claim was late for consideration by the BRP. We have entertained late claims with motivation to date, but no claims were accepted after 29 February 2024.

3.7.4 After the business rescue plan was approved on 31 March 2023, extended time was given to submit claims to ensure that no investor was excluded from the system and to provide the creditors with sufficient time to submit their claims.

3.7.5 It is to be noted that if a creditor did not submit their claim as per the approved Business Rescue Plan, their claim in the company fell away, and they will receive no payment. ALL creditors (even those who were in support of the Class Action) were to submit their claims accordingly.

3.7.6 We are assessing and vetting all claims in compliance with the Adopted BR Plan. All creditors who submitted claims have received notices in regard to whether their claim was accepted or rejected, and if accepted, they were provided with a link to upload any outstanding documentation and their latest banking details. Reasons were provided for the rejection of certain claims to afford the creditor the opportunity to dispute or to comply with requirements.

L MPAKATI

BUSINESS RESCUE PRACTITIONER **DATE: 31 May 2025**