

## **TO ALL AFFECTED PERSONS**

**13<sup>th</sup> FEBRUARY 2012**

Dear Sir / Madam

### **HIGHVELD SYNDICATION 15 -22 LIMITED (“ALL UNDER BUSINESS RESCUE”) (“THE SYNDICATION COMPANIES”)**

### **UPDATE ON THE BUSINESS RESCUE PROCESS BY THE BUSINESS RESCUE PRACTITIONER (“BRP”)**

1. Business rescue proceedings in respect of the syndication companies began during September 2011.
2. As is envisaged in terms of the Companies Act 71 of 2008 (“the Act”) the business rescue process culminated in the publishing of a business rescue plan (“the plan”) that was adopted by all affected persons on 14<sup>th</sup> December 2011 with an overwhelming majority. The final version of the business rescue plan may be obtained by following link on the [www.pickvest.co.za](http://www.pickvest.co.za) website:  
  
<http://www.pickvest.co.za/LinkClick.aspx?fileticket=mjMipMwY4ro%3d&tabid=127>
3. The final audited voting results in respect of the syndication companies and the notice sent to all affected persons pursuant thereto may also be found on the abovementioned website.
4. The effect of the adoption of the plan was that the provisions thereof became final and binding by way of by statute as is provided for in terms of the Act.
5. The rights of all parties pursuant to the business rescue plan are provided for in the plan and all affected persons, mainly all investors, are now bound by the provisions of the adopted plan.

6. On the day immediately after adoption of the plan, i.e. 15 December 2011, Orthotouch Limited ("Orthotouch"), until then a shelf company, became a public company with assets, or an entitlement to assets, to the value of approximately R4.1 billion.
7. Orthotouch, as a shelf company, as stated above, had to commence with the implementation of the plan and the establishment of an infrastructure which entails a myriad of statutory requirements and administrative challenges such as, to mention but a few:
  - 7.1. The opening of banking accounts and complying with the necessary FICA requirements, not only relating to Orthotouch but also its directors;
  - 7.2. The VAT registration process;
  - 7.3. The entering into service level agreements between the company and its directors;
  - 7.4. The setting up of procedures relating to accounting and management;
  - 7.5. The establishment of audit-, risk- and other committees;
  - 7.6. The migration of rental administration services from various companies into one company and from various locations in South Africa and which process is far from complete;
  - 7.7. The establishment of an infrastructure and applying for telephone and data lines with Telkom and which process is still not complete.
  - 7.8. The arranging of a corporate identity and a website for Orthotouch which process is not as yet complete.
8. During the period from 15<sup>th</sup> December 2011 to 15<sup>th</sup> January 2012 the setting up of the abovementioned and other procedures proved to be a major challenge due to

the annual holiday time prevailing at that time of the year. Many of the role-players and service providers were simply not available or able to render a service during that time.

9. The duly appointed directors of Orthotouch have, therefore, only during the past three to four weeks been able to:

9.1. actively engage in setting up the necessary infrastructure;

9.2. arrange for compliance with various statutory requirements;

9.3. ensure that the governance of Orthotouch be properly established from the outset; and

9.4. put measures in place to implement the plan.

10. In addition to the effect of all the above, an apparent lack of understanding and knowledge by many role-players relating to the precise legal impact of the adoption of the plan hampered the directors in making the anticipated progress.

11. Banks and other financial institutions, for instance, appeared to be reluctant to commit to financing a new multi-billion company for adequate working capital and financial means required provided for its immediate commitments and to enable it to commence with its activities to the benefit of all its stakeholders.

12. It became apparent that this is a transition process and that immediate success and results cannot be achieved within a matter of a few weeks and especially under circumstances where we are a mere some 8 weeks down the line from the date of adoption of the plan (of which almost some 4 weeks were taken up by annual holidays). The pressures upon all the role-players to communicate with stakeholders such as investors in the syndication companies have been enormous but under circumstances where the issues to be discussed remained

uncertain and where circumstances changed on an almost daily basis such communication proved to be a challenge.

13. Queries are being raised by investors, financial advisors acting on behalf of investors and on a regular basis.

14. Some of these frequently asked questions and the responses thereto by the BRP are as follows:

**14.1. Question**

Why is it necessary to borrow money to pay the monthly income?

***Response:***

*When the business rescue proceedings began the BRP established that the payment of interest was being subsidised by a third party and had been subsidised for many months prior to that.*

*The decision to be taken by the BRP was whether to abide by the arrangement of using funding to pay the interest in the interim or to cease with obtaining such funding.*

*The decision was to continue with the obtaining of such funding whilst exploring the possibility of renegotiating and reviving the Orthotouch offer which was withdrawn upon the commencement of business rescue proceedings.*

*The information provided to and the investigations by the BRP indicated that many of the properties in the portfolios were in dire need of maintenance and that the costs relating to maintaining buildings was a major drain on the*

*income to the extent that the rental income was insufficient to ensure payment of investor's interest.*

*The representations made to the BRP were that, upon adoption of the plan and the consolidation of the entire property portfolio, the "bad" properties could be sold and the proceeds used to invest in better quality properties.*

*It was also presented to the BRP that the raising of the necessary further finance upon adoption of the plan and the implementation thereof will enable Orthotouch to service the interest payment to its investors and carry out the necessary maintenance to ensure that the value of the properties in dire need of maintenance will be increased with the consequent entering into better and longer term leases with anchor tenants which will increase the income and growth in property values.*

**14.2. Question:**

If the 77 buildings do not yield enough income and finance is necessary, is the Board of directors of Orthotouch not merely paying income from the investors' capital and what will be the position if there is not sufficient capital in 5 years' time to repay the investors?

**Response:**

*This question is partially answered in what is contained above.*

*The BRP has been advised that the present income of the entire portfolio is not sufficient to pay investors and to meet the costs and maintenance commitments.*

*As the BRP has not been in control of the entities that own a substantial portion of the 77 buildings he has not been able to verify this in detail.*

*The BRP has been informed that some of the 77 buildings need urgent maintenance. Maintenance will enhance the ability of the buildings to generate sufficient income and growth to ensure that the portfolio's growth during the next five years will enable Orthotouch to repay the investors in December 2016 as is envisaged in the plan.*

**14.3. Question:**

The Orthotouch business plan projected that there would be enough income to pay investors their income and why is it not happening?

***Response:***

*The projections were based on what the position would be once all the administrative issues and controls are in place and once Orthotouch stabilizes and becomes fully operational with all the intended finance having been obtained and the maintenance of properties being in place.*

**14.4. Question:**

As the syndication companies hold the shares in Orthotouch in pledge at present are they, as shareholders, entitled to monthly statements, cash flow statements and information relating to the leases and maintenance of the buildings?

***Response:***

*The syndication companies are not the "shareholders" of Orthotouch. The shares are merely held by the syndication companies as security for Orthotouch's performance in terms of the plan and ownership of the shares remains with its shareholders as stipulated in the plan.*

*As holders of the shares as security the syndication companies and, in turn, the investors in the syndication companies are not automatically entitled to Orthotouch's records.*

*The investors' ultimate interest in the affairs of Orthotouch will however be appreciated and the necessary reporting structures will be put in place to ensure that investors are updated regularly on the status of Orthotouch's affairs.*

*The pledge documentation has been finalised and signed and are being held in trust by an attorney.*

**14.5. Question:**

Will investigations about the dispute between Zephan and Bosman & Visser in regard to the amounts payable by Bosman & Visser to Zephan and the alleged "missing" R 883m continue?

**Response:**

*The adopted plan provides that the syndication companies shall cede, assign, transfer and make over to and in favour of the Orthotouch all and any claims of whatsoever nature and howsoever arising which any of them may have against any entity in the Pickvest Group of Companies and/or the Zephan Group of Companies and/or any of their Directors, Managers, Attorneys and/or Representative relating to or arising from any dealings which such entities and/or persons might have had with any of the Syndication Companies.*

*The adoption of the plan and acceptance of the offer by Orthotouch shall be deemed to constitute a cession of any such claims.*

*It therefore follows that the issue of the "missing" R 883m is no longer a claim that the BRP will be able to pursue as, in view of the overwhelming*

*vote in favour of the adoption of the plan, the syndication companies, represented by the BRP, ceded such claims to Orthotouch.*

*There are still many investors who continuously address communications to the BRP enquiring about these issues. Such investors should bear in mind that some 99% of the investors who voted (refer to the voting results above) voted in favour of the plan and the consequences thereof which, inter alia, entails a cession of the claims described above.*

*Insofar as investors may believe that they have claims against Zephan Properties (Pty) Limited and/or Bosman & Visser the BRP does not believe that there is any nexus between the investors and these companies and there could consequently be no claim against these companies by investors.*

**14.6. Question:**

Who acts in the interest of investors as representative on the Orthotouch board of directors?

**Response:**

*Orthotouch is a legal entity responsible to meet its commitments towards its creditors. The investors are contingent creditors who are due to be paid their capital in December 2016.*

*The Orthotouch offer submitted to the BRP and, which forms the basis of the plan published by the BRP, provided that the syndication companies could appoint two persons as directors to Orthotouch upon adoption of the plan.*

*The provisions of the Act are clear in that section 140 provides that the BRP has full management control over the syndication companies by virtue of the companies having been placed under business rescue because of the financial distress experienced by the companies. Pursuant to the powers of*

*the BRP as provided for in the Act the BRP and attorney Connie Myburgh were appointed as directors to Orthotouch.*

*The notion of a certain party being a representative of only some of the stakeholders on a board of directors and consequently the party with a duty to report to the those stakeholders is untenable and unsupported in Law.*

*Once appointed the directors to a company are responsible to the company and in acting in the interest of the company the directors automatically acts in the interest of stakeholders, which include its contingent creditors, being the investors and ultimately its shareholders.*

**14.7. Question:**

Who liaises with the directors of the syndication companies in order to provide them with information and what is their position?

***Response:***

*During any company's business rescue proceedings, the BRP has full management control of the syndication companies in substitution for its board and pre-existing management and may delegate any of his powers or functions to a person who was part of the board or pre-existing management of the company.*

*The BRP will liaise with the directors of the syndication companies and keep them and investors informed of the developments relating to the implementation of the plan.*

*The directors of the syndication companies will remain in office.*

**14.8. Question:**

Are the directors of the syndication companies obliged to keep “an eye” over the new transaction, the management of the buildings and the interest of investors?

**Response:**

*The directors of the syndication companies are not strictly obliged to do so as the BRP has full management control of the syndication companies in substitution for its board and pre-existing management but have indicated their willingness to remain in office and to also keep an eye on developments.*

**14.9. Question:**

When will the investors in HFS 22 receive a communication to exercise the option to receive interest and with effect from when will such income be paid?

**Response:**

*A communication to all investors in HFS 22 in compliance with the provision of the plan was drafted a week or so ago and are being sent to all such investors almost simultaneously with this communication.*

*The document provided for options as set out in the plan and those HFS 22 investors who have not as yet received the communication are urged to contact their broker or the Pickvest call centre at: 0861 742 742 or 012 342 9061.*

*The interest will be paid with effect from 15<sup>th</sup> December 2011.*

**14.10. Question:**

In HFS 21 where there was an oversubscription of some R130 million in that some investors invested in HFS 21 but were not issued with shares, there would not appear to be additional properties earmarked for Orthotouch to increase the present value by R 130m?

**Response:**

*HFS 21 was, like all seven other syndication companies, placed under business rescue on 7<sup>th</sup> September 2011. The BRP investigated the company's affairs and was confronted with the legal challenge relating to the to the oversubscription in HFS 21.*

*The conclusion arrived at was that, in the event of a liquidation of HFS 21 the investors who have made payments to HFS 21 and were oversubscribed would have also been in exactly the same position as any other concurrent creditor of HFS 21 upon the liquidation of HFS 21.*

*Whether a share certificate was issued to an investor or not did not alter the investor's position as creditor. The fact of the matter remained that they would be creditors of HFS 21 by virtue of having paid monies to HFS 21.*

*HFS 21, as was demonstrated in the plan, had huge liabilities and no assets other than a claim against Bosman & Visser and was therefore insolvent on the date that business rescue commenced.*

*The BRP had no alternative but to deal with the oversubscribed investors in HFS 21, irrespective of whether they were allocated shares or not. It was therefore decided that they would be subject to the plan but that an equitable basis to deal with them would be to also offer them shares (which became available) and to place them in exactly the same position as other shareholders, in addition with abiding by the arrangement that they would continue to receive the higher interest rate.*

*There is consequently no prejudice to the general body of investors in HFS 21 as this company in any event owned no immovable property as at the date of commencement of the business rescue process.*

*As a result of the adopted plan all its creditors (the investors), irrespective of whether such investors were issued with shares or not and irrespective of such investors have claims as result of an investment or an oversubscription will now be dealt with in terms of the provisions of the plan.*

**14.11. Question:**

What security is there for those investors who oversubscribed in HFS 21?

***Response:***

*The answer to this question is partially contained in the response to the question above. The effect of the adoption of the plan is that all investors in all the syndication companies participate equally in the proposed final payment envisaged in terms of the plan and the Orthotouch agreement forming the basis thereof.*

*The oversubscribed investors are substantially better off upon the adoption of the plan in that they now have the opportunity to receive their full capital in December 2016 as opposed to a concurrent claim that they would have had against a liquidated entity with no assets other than a claim against Bosman & Visser as was explained in the plan.*

**14.12. Question:**

The R130m dilutes the present shareholders' value of their shares with additional liabilities of R130 m to be repaid over 60 months.

***Response:***

*Upon reading the responses to the questions above the answer to this question should be clear.*

*The issued shares in HFS 21 had no commercial value as at the date of the commencement of the business rescue proceedings in HFS 21 by virtue of HFS 21 being insolvent at the time.*

*In the absence of a plan the company would have been liquidated and its investors as concurrent creditors, irrespective of whether such investors had been issued with shares or not, would all have participated pro rata on their claims against the company from the proceeds less liquidation costs of whatever would have been recovered from Bosman & Visser as was demonstrated in the plan.*

*There would have been no payment to shareholders and as a result there is no basis upon which investors in HFS 21 who have been issued with shares could argue that they were “diluted”.*

*Simply put: they would have received zero on their shareholding and zero cannot be diluted.*

*It is an inescapable reality that the R130m liability of HFS 21 was in existence and had to be dealt with in the business rescue process. Those parties have legitimate claims against HFS 21 and had to be accommodated in the plan.*

*The introduction of an additional portfolio of properties worth some R1,547,615,103.00 (One Billion Five Hundred and Forty Seven Million Six Hundred and Fifteen Thousand One Hundred and Three Rand) to Orthotouch from Zephan Properties (Proprietary) Limited as is provided for in terms of the plan means that not only the investors in HFS 21 but also the investors in all seven other syndication companies will benefit from the potential growth in this portfolio and the future income received from this portfolio.*

**14.13. Question:**

Why are the oversubscribed investors in HFS 21 receiving higher interest being 9.5% as opposed to 6%?

***Response:***

*The arrangement that was in place and that was abided with by the BRP pursuant to the offer received from Orthotouch was referred to above.*

*The rationale as to why the oversubscribed investors would receive a higher return by virtue of them having been caught up in the process was established prior to the commencement of the business rescue process and the BRP did not question Orthotouch's motives for abiding by the arrangement that the oversubscribed investors be kept in the same position as they were in immediately before the commencement of business rescue proceedings.*

**14.14. Question**

Do the oversubscribed investors belong in the Orthotouch agreement as they were previously earmarked to be accommodated in Growealth?

***Response:***

*When the business rescue proceedings in HFS 21 began the oversubscribed investors' claim against HFS 21 existed and had to be dealt with by the BRP.*

*The commencement of the business rescue of HFS 21 probably terminated plans such as the "earmarking" of the oversubscribed investors to be accommodated in Growealth. The BRP has no knowledge of this and do not deal with the affairs of Growealth.*

14.15. **Question:**

When will the investors be able to “nominate” two directors to Orthotouch?

**Response:**

*The Orthotouch offer as was mentioned herein above, was re-negotiated by the BRP personally after the commencement of proceedings.*

*Upon receipt and re-negotiation of a revised offer during November 2011 the BRP proceeded to draft and publish the plan.*

*Notwithstanding what is contained in the explanatory part of the BRP’s published plan the Orthotouch offer remain the operative contract upon adoption of the plan.*

*The Orthotouch offer, being negotiated by the BRP, and more specifically in Appendix I provide that the syndication companies shall be entitled to **appoint** two directors in addition to the directors named in Appendix I.*

*No mention whatsoever is made in the Orthotouch agreement of a right to **nominate** directors by any party whatsoever. The agreement provides that the syndication companies (representing its investors) may **appoint** directors.*

*There are parties who are mistakenly of the view that two additional directors may be appointed by the investors in addition to those appointed in terms of Appendix I.*

*As the author of the plan the writer will, in the event of any uncertainty, be required to explain what the true intention was with the drafting of the specific wording contained in the plan.*

*Upon being required to do so the writer will state categorically that there was no intention to renege on what was a clearly negotiated. In other words that the syndication companies, being the BRP, with full management control of the syndication companies was entitled to appoint the two directors and which has been done and dealt with above.*

*It is intended, for the sake of transparency and good order, to convene the Annual General Meetings (AGM) for the syndication companies to be held during March 2012.*

*At the AGM investors will be requested to ratify the appointment of the directors appointed by the BRP by virtue of his statutory power to exercise full management control of the syndication companies as is provided for in terms of section 140 of the Act.*

**14.16. Question:**

Will the BRP have the time and capacity to do so and what measures will the BRP put in place to ensure that the management, income and information relating to the buildings will be under his control to ensure that the investors' interest is protected?

***Response:***

*The responsibility to look after Orthotouch's affairs will ultimately be that of its board of directors.*

*The BRP will be part of the board of directors and the monitoring of management, income and information will be the responsibility of the management committee who will in turn report to the board of directors.*

**14.17. Question:**

When will the transaction stabilise to ensure that investors receive their income in their banking accounts by the 7<sup>th</sup> of each month as the business rescue plan provides?

***Response:***

*Negotiations with various financial institutions are under way with a view to obtaining sufficient financial assistance to enable Orthotouch to focus on the fulltime management of the portfolio as opposed to be arranging short term finance on month to month.*

*It is anticipated that the financing will be obtained with the next week or two and that, upon having achieved that, investors may expect to receive regular and constant income by the 7<sup>th</sup> of each month.*

**14.18. Question:**

Have the Nic Georgiou Trust en Zephan bound them in writing as surety and co-principal creditor as provided for in the business rescue plan and who keeps the documentation?

***Response:***

*The aforesaid entities are, by virtue of the statutory provisions contained in the Act, to the effect that the adopted plan, which includes the signature of Mr N. Georgiou as trustee of the trust and the managing director of Zephan, bound by virtue what is contained in the adopted plan.*

*In addition, all documentation to give effect to intended suretyships have been drawn and are in the process of being signed.*

*The documents will be kept in trust with a firm of attorneys or any party that the BRP may appoint for that purpose.*

**14.19. Question:**

What is the BRP's estimate of the time frame for the registration of transfer of the buildings and which funds will be used to fund the process?

***Response:***

*No specific time frame have been set down as the details of what clearance certificates are required for the 77 properties are not known as yet. The process may very well take up to 24 months.*

*The funding of the costs of transfer will be responsibility of the purchaser in terms of the transactions which is Orthotouch. The obtaining of this funding forms part of the responsibilities of Orthotouch's directors and management.*

**14.20. Question:**

Have the 5 members of the management committee been appointed and who are they?

***Response:***

*The process of appointing and finalising the management committee is under way and the parties who will serve on that committee will be presented to the Orthotouch board of directors on 22<sup>nd</sup> February 2012 at their first formal meeting.*

**14.21. Question:**

Did the BRP encumber any buildings as security for the post commencement finance obtained since the commencement of business rescue?

**Response:**

*The Act provides that during its business rescue proceedings, companies may obtain financing and that such financing may be secured to the lender by utilising any asset of the company to the extent that it is not otherwise encumbered and will be paid in the order of preference set out in the Act.*

*The loan entered into post the commencement of business rescue was entered into between Zephan Properties (Pty) Limited and a financial institution and not between the BRP and the financial institution directly. The BRP was required to bind the syndication companies as surety.*

*By virtue of the provisions of the Act relating to post commencement finance and that financial commitments entered into by the BRP ranks ahead of all other claims against the company that existed prior to the commencement of business rescue it follows that binding the syndication companies as surety and in the event that the companies be called upon to settle those loans that such loans will have to be settled in preference to any pre-existing claims.*

*The plan, however, provides that Zephan introduces an additional portfolio of properties worth some R1,547,615,103.00 (One Billion Five Hundred and Forty Seven Million Six Hundred and Fifteen Thousand One Hundred and Three Rand) to Orthotouch.*

*This means that the encumbrances over those properties so introduced by Zephan to the extent of about R1.1 Billion and which includes the post commencement commitments by Zephan are in event part of Orthotouch's liabilities going forward.*

**14.22. Question:**

What other alternatives did the BRP investigate prior to publishing the plan?  
The name of a party such as Pathfinder was mentioned?

**Response:**

*The BRP was approached by various parties who wanted to submit offers or proposals since the commencement of proceedings.*

*One such party was a group named Pathfinder and whose representatives met with the BRP during the second week of October 2011. The transaction that they proposed entailed the establishment of a larger portfolio of properties which would include properties not under the control of the BRP at that stage.*

*It was suggested to these parties to engage with the role-players outside the business process with a view to obtaining such parties' consensus in establishing such a larger portfolio.*

*Discussions with some parties took place and verbal feedback was provided to the BRP from time to time.*

*A number of days before the plan was due to be published written communications between the interested party and a third party were forwarded to the BRP.*

*No alternative final written proposal other than the Orthotouch offer, acceptable to affected persons as defined in terms of the Act, or their representatives, was presented to the BRP, to enable the BRP to include such proposal for publication in a business rescue plan as defined in terms of the Act in good time prior to 30 November 2011.*

**14.23. Question:**

How do investors communicate with Orthotouch in future?

**Response:**

*Orthotouch is still in the process of setting up an office and a website will be finalised shortly.*

*Telkom is in the process of finalising the installation of new telephone lines. The lines should be installed within the next few days and investors may call 011- 262 3833 / 3853*

**14.24. Question:**

Why were Pickvest still involved after the adoption of the plan and why did JPA Administration not get involved immediately upon the adoption of the plan?

***Response:***

*JPA was not able or prepared to make the vast investment into infrastructure, computer equipment and the software required unless and until the plan incorporating the Orthotouch Offer was accepted.*

*Until such time as the plan was adopted JPA sub- contracted these functions from PIC Admin and Pickvest.*

*With the plan now being adopted JPA is in the process of making the necessary arrangements to set up the necessary infrastructure.*

**14.25. Question:**

What, in the opinion of the BRP, is the effect of the adoption of the plan by the statutory majority of investors on the general body of investors?

***Response:***

*It is the view of the BRP that the effect of the adoption of the plan is that the rights of investors were restructured.*

*As provided for in Section 155 (4) of the Act, the plan is binding upon the companies and on each of the creditors of the companies whether or not such a person was present at the meeting or not.*

*Kindly note that this is a statutory provision and that it is therefore not necessary to obtain any Order of Court or any other form of document or agreement to ensure that what is contained in the plan is final and binding upon all investors. The plan is therefore final and binding by operation of Law as was stated above.*

*The Orthotouch offer, read with the provisions of the plan provides that investors' rights are restructured, upon adoption thereof, as follows:*

- *The right to receive interest from the syndication companies who will receive monthly interest from Orthotouch.*
- *Investors' rights are restructured in that their claims are no longer against the syndication companies, but on the 5th anniversary of the adoption of the plan, they will be paid their capital by Orthotouch.*

**14.26. Question:**

What, in the opinion of the BRP, is the effect of the adoption of the plan by the statutory majority of investors on the syndication companies?

***Response:***

*It is the view of the BRP that the effect of the adoption of the plan is that the rights of the syndication companies were restructured.*

*Immediately prior to the adoption of the plan, the syndication companies had possible claims against B&V Limited for:*

- *the transfer of the properties or, alternatively,*
- *the repayment of the money paid to B&V.*

*Upon adoption of the plan the syndication companies altered their rights forever by accepting the terms of the Orthotouch offer.*

*In terms of the Orthotouch offer, in the opinion of the BRP, the claims of the syndication companies against B&V disappeared by virtue of the fact that all the properties, which the syndication companies paid for, are to be transferred to Orthotouch.*

*It follows that, because investors will no longer have any claims against the syndication companies, the syndication companies will no longer be in a position to claim against any third parties.*

*The syndication companies will have to prove that it suffered damages which would be impossible to prove under circumstances where investors no longer have claims against the syndication companies.*

*In terms of the Orthotouch offer (see clause 8.2 thereof), claims against B&V, by the syndication companies are, in any event, ceded to Orthotouch.*

**14.27. Question:**

What, in the opinion of the BRP, is the effect of the adoption of the plan by the statutory majority of investors on Orthotouch?

**Response:**

*Orthotouch, in terms of the plan and its offer, has two obligations:*

- *To pay monthly interest to the syndication companies;*
- *To pay investors their capital on the 5th anniversary of the adoption of the plan.*

*The cession provided for in clause 8.2 of the Orthotouch offer (i.e. the cession of claims that the syndication companies may have against third parties) (which as was demonstrated above no longer exist) lapse upon Orthotouch defaulting in terms of its obligations in terms of the Orthotouch offer and its failure to rectify such default within the time periods as provided for in the plan.*

*Orthotouch will be in breach insofar as the syndication companies are concerned if the monthly interest payments are not being made timeously and they fail to remedy its failure to remedy its breach within the 14 day period provided for in terms of the plan and the agreement.*

*Orthotouch needs to ensure proper governance, such as, for instance, the preparation of financial statements as provided for in the Orthotouch agreement and a failure to perform in that regard may also be seen as a default which needs to be rectified within 30 days.*

**14.28. Question:**

Is there an “exit plan” for investors in financial distress and urgent need?

Response:

*The Board of directors of Orthotouch have resolved to consider this urgently during the next few months as soon as their business plan has been finalised.*

15. We trust that what is contained herein provides a better understanding and more insight into the present position and should any further queries arise such queries will be dealt with by way of similar communications that will be addressed to all affected persons from time to time.

16. It requested that affected persons exercise patience until such time as all the structures have been put in place in order to ensure that the affairs of Orthotouch could be run effectively. Although the predicament that many investors are experiencing we request you to please, in your own interest, allow this process to stabilize.

Yours faithfully

**J F KLOPPER**

**Business Rescue Practitioner to Highveld Syndication companies**