

PUBLISHED VERSION

BUSINESS RESCUE PLAN

Prepared in terms of section 150 of the Companies Act 71 of 2008
in relation to

**COMAIR LIMITED
(IN BUSINESS RESCUE)**

prepared by the business rescue practitioners:

Shaun Collyer

and

Richard Ferguson

Publication Date: 2 September 2020

Corporate Information and Advisor Details

Company

Comair Limited (in business rescue)

Business Rescue Practitioners

Shaun Collyer

Richard Ferguson

Preparation of Independent Liquidation Report

PricewaterhouseCoopers South Africa

Legal advisors to the Business Rescue Practitioners

Werksmans Inc

Corporate advisor to the Company

PWC Southern Africa (Liquidation Value)

PSG Consult (Sponsor)

BDO South Africa (Auditors)

Deloitte Capital (Pty) Ltd (Corporate Finance Advisory Services)

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1. **CHAPTER 1 – INTRODUCTION**

1 **DEFINITIONS AND INTERPRETATION**

- 1.1 The headings of the paragraphs in this Business Rescue Plan are for the purpose of convenience and reference only and shall not be used in the interpretation of, nor modify, nor amplify the terms of this Business Rescue Plan, nor any paragraph hereof.
- 1.2 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):
- 1.2.1 any one gender includes the other gender;
- 1.2.2 the singular includes the plural and vice versa;
- 1.2.3 persons include natural persons, created entities (incorporated and unincorporated and the State) and vice versa ("**Person**");
- 1.3 The following terms and / or expressions shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings:
- 1.3.1 "**Adopted**" and/or "**Adoption**" means that the Business Rescue Plan has been approved in accordance with section 152(2), read with section 152(3)(b) and section 152(3)(c)(ii)(aa), of the Companies Act;
- 1.3.2 "**Advisors**" means the advisors to the BRPs and/or the Company, including Deloitte and Werksmans Incorporated, and the advisors' respective employees or representatives;
- 1.3.3 "**Affected Person/s**" shall bear the meaning ascribed thereto in section 128(1)(a) of the Companies Act, being the shareholders of the Company, Creditors, Employees and Trade Unions;
- 1.3.4 "**ATNS**" means Air Traffic and Navigation Services SOC Limited;
- 1.3.5 "**Board**" means the board of directors of the Company as at the Publication Date as set out in 6.2.1;

- 1.3.6 **"British Airways"** means British Airways PLC, a company registered in England with registration number 1777777;
- 1.3.7 **"BRPs"** means the joint business rescue practitioners of the Company appointed in terms of section 129(3)(b) of the Companies Act on 5 May 2020, being Collyer and Ferguson;
- 1.3.8 **"Business Day"** means any day other than a Saturday, Sunday or official public holiday in South Africa;
- 1.3.9 **"Business Rescue Proceedings"** means the proceedings to facilitate the rehabilitation of the Company, which is Financially Distressed, as provided for in Chapter 6 of the Companies Act;
- 1.3.10 **"Business Rescue Costs"** means the remuneration and expenses of the BRPs, including but not limited to legal costs and the costs of the Advisors, and other costs of the Business Rescue Proceedings;
- 1.3.11 **"Business Rescue Plan"** means this document together with all of its annexures, as amended from time to time, prepared in accordance with section 150 of the Companies Act;
- 1.3.12 **"CCMA"** means the Commission for Conciliation, Mediation and Arbitration, a dispute resolution body established in terms of the LRA;
- 1.3.13 **"CIPC"** means the Companies and intellectual Property Commission, established in terms of section 185 of the Companies Act;
- 1.3.14 **"Claims"** means all monetary claims against the Company;
- 1.3.15 **"Collyer"** means Shaun Collyer (identity number 730829 5208 086), a business rescue practitioner as contemplated in Regulation 126 of the Companies Act;
- 1.3.16 **"Commencement Date"** means 5 May 2020, being the date upon which Business Rescue Proceedings commenced in accordance with section 129(1) of the Companies Act;
- 1.3.17 **"Company"** means Comair Limited, registration number 1967/006783/06, a company incorporated in accordance with the laws of South Africa, at present under Business Rescue Proceedings;
- 1.3.18 **"Companies Act"** means the Companies Act 71 of 2008, as amended, including the regulations promulgated thereunder;

- 1.3.19 **"Concurrent Creditors"** means all persons with unsecured Claims, other than Disputed Creditors, Employees, PCF Employees and unsecured PCF Creditors;
- 1.3.20 **"Contingent Creditors"** means creditors whose Claims are contingent upon future events, and are not entitled to cast a vote on the Business Rescue Plan;
- 1.3.21 **"Creditors"** means Concurrent Creditors, Preferent Creditors, Secured Creditors, PCF Creditors, Employees, Preferred Employees, and PCF Employees, who have a Claim against the Company that has been accepted as such by the BRPs and are therefore neither Disputed Creditors nor Contingent Creditors. ;
- 1.3.22 **"Creditors' Committee"** means the committee formed in terms of section 145(3) of the Companies Act and whose representatives are set out in paragraph 6.6.7.3;
- 1.3.23 **"Customers"** mean persons who have Unused Reservations;
- 1.3.24 **"Deloitte"** means Deloitte Capital Proprietary Limited, with registration number 2010/009339/07, a company incorporated in terms of the laws of South Africa;
- 1.3.25 **"Disputed Claims"** means any Claim that is not reflected in whole or in part in Annexure B, and which is therefore rejected by the BRPs and may be referred for determination in terms of the Dispute Resolution Mechanism set out in paragraph 11 below and which does not carry a Voting Interest prior to determination of the dispute;
- 1.3.26 **"Disputed Creditors"** means Persons who have Disputed Claims; or Persons who dispute the amount, class and/or value of their security for which their Claim is reflected in Annexure B;
- 1.3.27 **"Dispute Resolution Mechanism"** means the dispute resolution mechanism set out in paragraph 11.
- 1.3.28 **"Distributions"** means any amount payable to Creditors as provided for in this Business Rescue Plan;
- 1.3.29 **"Employees"** means previous and current employees of the Company;
- 1.3.30 **"Employees' Representatives Committee"** means the committee formed in terms of section 144(3) of the Companies Act and whose representatives are set out in paragraph 6.6.6.3;

- 1.3.31 **"Expunged"** means Claims that have been finally discharged in terms of this Business Rescue Plan by way of a release of the Company, and that any one or more Claims or part of it can no longer be enforced against the Company;
- 1.3.32 **"Ferguson"** means Richard Alexander Ferguson (identity number 660605 5024 085), a business rescue practitioner as contemplated in Regulation 126 of the Companies Act;
- 1.3.33 **"Financially Distressed"** or **"Financial Distress"** bears the meaning ascribed thereto in section 128(1)(f) of the Companies Act;
- 1.3.34 **"Fleet"** means the 27 aircraft operated by the Company prior to the Commencement Date, and of which 20 aircraft are still either owned by the Company or leased from the Lessors as at the Publication Date;
- 1.3.35 **"Forfeit"** means the Claim or the balance thereof, as the case may be, right or entitlement against the Company is lost and expressly abandoned;
- 1.3.36 **"Group"** means the Company and all its Subsidiaries, the structure of which is found at Annexure A;
- 1.3.37 **"High Court"** means the High Court of South Africa;
- 1.3.38 **"IATA"** means the International Air Transport Association, it being a trade association of the world's airlines;
- 1.3.39 **"Insolvency Law"** means the Insolvency Act 24 of 1936, as amended;
- 1.3.40 **"Investors"** means the consortium of investors, comprising certain individuals, namely, Martin Moritz, Rodney Sacks, Hilton Schlosberg, Steven Herring, Glenn Orsmond, Kirsten King, and Pieter van Hoven, and an investment vehicle, namely Luthier Capital acting through a holding company structure which will include one or more private limited liability companies to be formed or nominated by them, and structured in a manner which is compliant with the requirements of the Air Services Licensing Act of 1990, as amended;
- 1.3.41 **"Investors Equity"** means the provision of equity capital to be invested in the Company by the Investors as contemplated in 7.2.3;
- 1.3.42 **"Investors Facility"** means the facility made available by the Investors to the Company as described in 7.2.2.1;

- 1.3.43 **"Investors PCF"** means the cash funding to be received from the Investor as set out in paragraph 7.2.2 below, and which amounts are to be treated as **"PCF"** until that PCF is converted to equity in the Company;
- 1.3.44 **"JSE"** – Johannesburg Stock Exchange, as operated by JSE Limited, with registration number 2005/022939/06, incorporated in accordance with the laws of South Africa;
- 1.3.45 **"Lease Agreements"** means the aircraft lease agreements concluded between the Company and the Lessors;
- 1.3.46 **"Lenders"** means ABSA Limited, Nedbank, Investec Limited, FirstRand Limited acting through RMB, Private Export Funding Corporation, Citibank N.A., US Export Import Bank and UK Export Finance;
- 1.3.47 **"Lessors"** means the persons, other than the Lenders, from whom the aircraft are leased;
- 1.3.48 **"Lock-down"** means the nationwide lock-down imposed by the President of the Republic of South Africa on Monday, 23 March 2020 in terms of the Disaster Management Act 57 of 2002 and the regulations promulgated thereunder, and all the extensions and varying levels of the nationwide lock-down;
- 1.3.49 **"LRA"** means the Labour Relations Act 66 of 1995, as amended;
- 1.3.50 **"Luthier Capital"** means Luthier Capital Proprietary Limited, with registration number 2013/231870/07, a company incorporated in accordance with the laws of South Africa;
- 1.3.51 **"Management"** means those members of the Company's management team who have the delegated and supervised responsibility of managing the day-to-day operations of the Company from the Commencement Date and thereafter;
- 1.3.52 **"MAX"** means the Company's grounded Boeing 737-MAX;
- 1.3.53 **"Operation Start Date"** – the date on which the Company's flying operations recommence, being approximately 1 December 2020;
- 1.3.54 **"Panel"** means the Takeover Regulation Panel, established by section 196 of the Companies Act;

- 1.3.55 **"Payment Date"** means the date on which the Distributions are to be paid;
- 1.3.56 **"PCF"** means post-commencement financing obtained in terms of section 135(1) of the Companies Act after the Commencement Date, as authorised by the BRPs;
- 1.3.57 **"PCF Creditor"** means a creditor from whom the Company obtained PCF;
- 1.3.58 **"PCF Employee"** means services rendered by Employees of the Company as contemplated in section 135(2) of the Companies Act after the Commencement Date;
- 1.3.59 **"Preferent Creditors"** means statutory preferent creditors as contemplated in the Insolvency Laws, read with section 135(4) of the Companies Act.
- 1.3.60 **"Preferred Employees"** means Persons who have a preferred unsecured Claim against the Company as envisaged in section 144(2) of the Companies Act;
- 1.3.61 **"Proposed Investment"** means the conditional investment of Investors PCF and Investors Equity in the Company, as has been proposed by the Investor, as summarised 7.2A (paragraphs 7.2.2 to 7.2.12.3 inclusive);
- 1.3.62 **"Publication Date"** means the date on which this Business Rescue Plan is published to Affected Persons in terms of section 150(5) of the Companies Act, being 2 September 2020;
- 1.3.63 **"PwC"** means PricewaterhouseCoopers South Africa;
- 1.3.64 **"Rand" or "R" or "ZAR"** means the lawful currency of South Africa;
- 1.3.65 **"Rejection Date"** - the date on which the BRPs notify a Disputed Creditor that its Claim has been rejected as contemplated in paragraph 6.9.2.4;
- 1.3.66 **"Retained Fleet"** means the Fleet in existence once it has been optimised by the Investors, if at all, as set out in 7.2.6 below;
- 1.3.67 **"Remuneration Agreement"** means the remuneration agreement concluded by the Company with the BRPs as set out in paragraph 6.6.12 proposed herein as Annexure J;

- 1.3.68 **"Retrenchment Processes"** means the retrenchment processes set out in paragraph 7.3.2;
- 1.3.69 **"SARS"** means the South African Revenue Services;
- 1.3.70 **"Secured Creditor"** means a Person who holds security for a Claim against the Company in terms of Insolvency Law, including those PCF Creditors who hold security against the Company;
- 1.3.71 **"Securities"** of the Company shall bear the meaning as defined in section 1 of the Companies Act;
- 1.3.72 **"Shareholder"** means, in the context of this Business Rescue Plan, a shareholder, as defined in section 1 of the Companies Act, of the Company;
- 1.3.73 **"SENS"** means the Johannesburg Stock Exchange News Service;
- 1.3.74 **"South Africa"** means the Republic of South Africa;
- 1.3.75 **"Subsidiary"** or **"Subsidiaries"** of the Company shall bear the meaning as defined in section 3 of the Companies Act;
- 1.3.76 **"Substantial Implementation Date"** means the date upon which the BRPs file a notice with the CIPC pursuant to the events contemplated in 8.3 and whereupon the Business Rescue Proceedings will terminate;
- 1.3.77 **"Suspensive Conditions"** means the suspensive conditions to which the Proposed Investment is subject as stipulated in 8.1.1;
- 1.3.78 **"Tax"** or **"Taxation"** means any tax payable to SARS in terms of the laws of South Africa;
- 1.3.79 **"Termination Date"** – the date on which these Business Rescue Proceedings end, pursuant to any of the events described in paragraph 8.2.
- 1.3.80 **"Trade Unions"** includes, but may not be limited to the National Union of Metal Workers of South Africa, Solidarity, South African Cabin Crew Association, UASA, all being trade unions registered as such in terms of section 96 of the LRA and the Air Line Pilots Association;

- 1.3.81 **"Unused Reservations"** means Kulula.com or British Airways (Operated by Comair) tickets starting with 161 for a departure between 14 March and 30 November 2020;
- 1.3.82 **"Unused Third Party Reservations"** means those reservations that were booked with Comair Limited that relates to a third party;
- 1.3.83 **"VAT"** means the value-added tax levied in terms of the Value-Added Tax Act 89 of 1991, as amended;
- 1.3.84 **"Voting Interest"** shall bear the meaning ascribed to it in 6.12.1 and
- 1.3.85 **"Werksmans"** means Werksmans Incorporated (registration number 1990/007215/21), a South African firm of attorneys practising as such at The Central, 96 Rivonia Road, Sandton;
- 1.3.86 **"Wind-Down"** shall bear the meaning ascribed to in 7.2B below (paragraph 7.2.13 to 7.2.19 inclusive).
- 1.4 Any reference to any statute, regulation or other legislation in this Business Rescue Plan shall be a reference to that statute, regulation or other legislation as at the Publication Date, and as amended or substituted from time to time.
- 1.5 Any reference in the Business Rescue Plan to any other agreement or document shall be construed as a reference to such other agreement or document as same may have been, or may from time to time be, amended, varied, novated or supplemented.
- 1.6 If any provision in a definition in this Business Rescue Plan is a substantive provision conferring a right or imposing an obligation on any person or entity then, notwithstanding that it is only in a definition, effect shall be given to that provision as if it were a substantive provision in the body of this Business Rescue Plan.
- 1.7 Where any term is defined in this Business Rescue Plan within a paragraph other than this paragraph 1.7, that term shall bear the meaning ascribed to it in that paragraph wherever it is used in this Business Rescue Plan.
- 1.8 Where any number of days is to be calculated from a particular day, such number shall be calculated as excluding such particular day and commencing on the next day, if the last day of such number so calculated falls on a day which is not a Business Day, the last day shall be deemed to be the next succeeding day which is a Business Day.
- 1.9 Any reference to days (other than a reference to Business Days), months or years shall be a reference to calendar days, months or years, as relevant.

- 1.10 Words or terms that are capitalised and not otherwise defined in the narrative of this Business Rescue Plan (excluding capitalised words or terms used for the purpose of tables) shall bear the meaning assigned to them in the Companies Act.
- 1.11 The use of the word "including", "includes" or "include" followed by a specific example/s 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 example/s.
- 1.12 To the extent that any provision of this Business Rescue Plan is ambiguous, it is to be interpreted in a manner that is consistent with the purpose of the business rescue provisions of section 7(k) and in Chapter 6 of the Companies Act.
- 1.13 Unless otherwise stated, all references to sections are references to sections in the Companies Act.
- 1.14 All information provided in the Business Rescue Plan is reflected as at the Publication Date, unless otherwise indicated in the Business Rescue Plan.
- 1.15 Unless indicated otherwise, all figures in this Business Rescue Plan are reflected as at 30 April 2020, being the closest practical date to the Commencement Date. In this regard, please see paragraph 15.

2 STRUCTURE OF THE BUSINESS RESCUE PLAN

2.1 For the purposes of section 150(2) of the Companies Act, the Business Rescue Plan is divided into several chapters:

2.1.1 Chapter 1 — Introduction

This chapter sets out general information about the Business Rescue Plan, including the structure of the Business Rescue Plan, as well as a summary of the proposals in terms of this Business Rescue Plan.

2.1.2 Chapter 2 – Proposal

This chapter provides details on the proposal contained in this Business Rescue Plan, and is set out as required by the Companies Act as follows:

2.1.2.1 Part A – Background (section 150(2)(a))

This part contains the Company's background and sets out the circumstances that resulted in the Company's Financial Distress and an overview of Business Rescue Proceedings.

2.1.2.2 Part B – Terms of Proposal (section 150(2)(b))

This part describes the proposals, including the terms, effects, benefits and risks of adopting the Business Rescue Plan.

2.1.2.3 Part C — Assumptions and Conditions of Proposal (section 150(2)(c))

This part sets out the conditions that need to be fulfilled in order for the Business Rescue Plan to be implemented and become effective, as well as the assumptions applied in respect of the proposal.

2.1.3 Chapter 3 – General

This chapter sets out certain administrative and general matters pertaining to the Business Rescue Proceedings and the Business Rescue Plan.

2.1.4 **Chapter 4 – Conclusion and BRPs' Certificate**

The chapter contains the BRPs' recommendations and the certificate that is required to accompany the Business Rescue Plan in terms of the Companies Act.

3 ACTIONS TO BE TAKEN BY AFFECTED PERSONS

- 3.1 Affected Persons are advised to consult an independent attorney, accountant or other professional advisor in respect of this Business Rescue Plan.
- 3.2 Nothing contained in the Business Rescue Plan shall constitute tax, accounting or legal advice to any Affected Person, and the BRPs do not make any representations in respect thereof, other than as may be expressly stated in this Business Rescue Plan.
- 3.3 The BRPs shall not be responsible for any acts taken by (or omissions arising from) any Affected Person's reliance on this Business Rescue Plan.
- 3.4 It is important for Affected Persons to read this Business Rescue Plan in its entirety, however, the BRPs also:
 - 3.4.1 draw the Creditors' attention to Annexure B and Annexure L; and
 - 3.4.2 draw the Shareholders' attention to Annexure C, and Annexure M to Annexure P.

4 NOTIFICATIONS

- 4.1 Insofar as possible, notice has been given to the Affected Persons, in terms of the Companies Act and the Regulations thereto, that the Company has been placed under Business Rescue Proceedings and placed under the control and supervision of the BRPs, in accordance of the Companies Act.
- 4.2 Affected Persons were notified of the commencement of the Business Rescue Proceedings by way of e-mails on 7 and 8 May 2020 addressed to the latest e-mail addresses available and according to the records of the Company, and by SENS announcement.
- 4.3 In terms of section 150(5) of the Companies Act, this Business Rescue Plan is published on 2 September 2020.
- 4.4 Should the Business Rescue Proceedings, the Business Rescue Practitioners will provide regular monthly updates relating to the Business Rescue

Proceedings and the implementation of the Business Rescue Plan to the Affected Persons in accordance with section 132(3)(a) of the Companies Act.

- 4.5 This Business Rescue Plan will be published to Affected Persons by e-mail and on the website for their consideration. Affected Persons will further be notified that the Business Rescue Plan has been published by way of notification on SENS. Where Shareholders have elected to receive notices by registered mail, these Shareholders will be notified as such,.
- 4.6 All notices issued in respect of the publication of the Business Rescue Plan will provide details in terms of section 151(2) of the Companies Act of the meeting of Affected Persons to consider and vote on the Business Rescue Plan.
- 4.7 This Business Rescue Plan, the abovementioned notifications and other information relating to the Business Rescue Proceedings can be accessed on the Company's website at <https://www.comair.co.za/business-rescue>.

5 SUMMARY OF THE PROPOSAL IN THE BUSINESS RESCUE PLAN

5.1 Reasons for the Company's Financial Distress:

5.1.1 Prior to the Commencement Date, the Company had:

5.1.1.1 rising levels of debt due to significant capital expenditure to renew the Company's Fleet, which was exacerbated by the grounding of the MAX; and

5.1.1.2 a resultant and significant increase in the cost of operating the Fleet, including interest financing and lease costs,

which rapidly escalated the Company's total operating costs and resulted in a decline in the profitability of the Company, and reduced cash flows from operations and the eroding of the Company's liquidity.

5.1.2 In this regard, the Company –

5.1.2.1 incurred R1.6 billion in capital expenditure between 1 July 2017 and 31 December 2019, being utilised to, amongst other things, renew the Fleet, including pre-delivery payments relating to the MAX, and investments in certain related add-on acquisitions.

5.1.2.2 had an increase in its total debt from R2.2 billion at the end of 30 June 2015 to R4.9 billion at 31 December 2019, with the

total interest and financing costs increasing from R32.5 million per annum for 30 June 2015 to R332 million as of 31 December 2019, annualized;

- 5.1.2.3 had an increase in the total cost of ownership of the Fleet by 65.0% between 30 June 2017 and 30 June 2020 (annualised), and an increase in overall expenses by 41.3% over the same period, and an increase in revenues by only 25.9% over the same period; and
- 5.1.2.4 had a decrease in operating profit before interest in 2018 from R 671 million to R 12 million for the period July to December 2019.
- 5.1.3 Further, during February 2019, the Company and South African Airways SOC Limited ("SAA") reached a settlement agreement in terms of which SAA was to pay the Company R 1.1 billion in respect of damages sustained by the Company. The dispute between the Company and SAA arose when the Company lodged a complaint with the Competition Commission that SAA had paid certain override commissions to travel agents to divert customers away from the Company's flights during 2001 to 2006. In terms of the settlement agreement, SAA had made an initial payment of R 383 million on 28 February 2019, with the balance payable in monthly instalments until 28 July 2022. However, these payments were immediately terminated once SAA was placed into voluntary business rescue on 5 December 2019. Consequently, SAA breached the terms of the settlement agreement and the full outstanding balance of the settlement amount in the sum of R 790 million, as at 31 December 2019, became due, owing and payable in terms of the agreement. It is, however, highly unlikely that the Company will be able to recover the full outstanding amount from SAA.
- 5.1.4 Importantly, the travel bans imposed during the nationwide Lock-down under the Disaster Management Act 57 of 2002 has also had an unprecedented and prejudicial economic effect on the Company. That is, even though the Company was prevented from generating any revenue whatsoever during the nationwide lockdown under restriction levels 4 and 5, the Company was obliged to continue to meet its financial obligations where legally required to do so.
- 5.1.5 As a result of the ongoing nationwide Lock-down restrictions, the circumstances aforesaid converged and resulted in the Company's financial distress.

- 5.1.6 Therefore, as a result of the prolonged effects of the restrictions under the nationwide Lock-down, the Company has insufficient funding to recommence domestic air travel. Consequently, although domestic air travel is allowed under Level 2 of the Lock-down, it is currently impossible for the Company to resume operations and the BRPs have accordingly taken the view that flights will not be able to be resumed until the Company is sufficiently capitalised.
- 5.1.7 To return the Company to sustainable operating levels and activities requires a material investment of debt funding and new equity capital in order to preserve the key business elements of the Company during the intervening period and to facilitate the return to operations which are currently planned for 1 December 2020. Should the Company be recapitalized sooner, the Company can recommence domestic air travel sooner.
- 5.1.8 The Company was clearly Financially Distressed on the Commencement Date as it was unable to generate any revenue and therefore unable to meet its then current and ongoing financial obligations. The commencement of business rescue proceedings for the Company was inevitable, with the only alternative being liquidation.
- 5.2 Key Facets of the Business Rescue Plan:
- 5.2.1 The reduction and careful monitoring of the Company's costs by the BRPs;
- 5.2.2 Securing PCF from the Company's Lenders and Lessors, in order to provide for the storage, care, maintenance and insurance of the Fleet, as well as the necessary support services thereto;
- 5.2.3 Mothballing the Fleet, by placing the aircraft into long-term storage, for a minimum period of 6 months from the Commencement Date with the intention to resume all flying operations by approximately 1 December 2020 or as soon as the Company is sufficiently capitalised in terms of this Business Rescue Plan;
- 5.2.4 Capitalising the Company prior to the Operations Start Date, by way of Proposed Investment, described in 7.2A (paragraph 7.2.2 to 7.2.12.3 inclusive) ;
- 5.2.5 Continuing with the Retrenchment Processes to address the Company's operational requirements arising from the expected reduced flying demand and resulting optimisation of the Fleet.

- 5.3 Anticipated Outcomes of this Business Rescue Plan:
- 5.3.1 When comparing the estimated dividends payable to Creditors in the event of a liquidation of the Company against the BRPs' estimation of Distributions payable to Creditors in accordance with this Business Rescue Plan, each class of Creditor will (it is anticipated) receive at least an equal Distribution in terms of this Business Rescue Plan than would have been the case in the alternative scenario of an immediate liquidation of the Company.
- 5.3.2 In this regard, if the Proposed Investment is implemented as set out in terms of this business rescue plan, the sum of R40 million will be set aside by the Investor in order for the Company to pay a Distribution to Concurrent Creditors. Concurrent Creditors will receive an estimated Distribution as contemplated in Table 1.
- 5.3.3 In this regard, Table 1 below sets out a reasonable estimate of the probable Liquidation Dividend and the expected range of Distributions per Creditor class, but these are not binding on the BRPs as they are approximations only.

Table 1:

Illustrative estimated outcome analysis based on assets and liability values at 30 April 2020 and subject to adjustments for material developments up to the Publication Date. The Estimated Distribution expected in terms of this Plan (Cents) 7.2 A and 7.2B is detailed below;

Class of creditor	Average Estimated Liquidation Dividend (Cents)	Estimated Liquidation Dividend Range (Cents)	Estimated Distribution expected in terms of this Plan (Cents) 7.2A & 7.2B
Secured creditors, including Secured PCF creditors	64	10-100	100
BRP's remuneration and expenses and the costs of the Business Rescue (section 135(4) of the Companies Act)	n/a	n/a	100
PCF Employees (section 135(4) of the Companies Act)	n/a	n/a	100
Unsecured PCF Creditors (section 135(4) of the Companies Act)	41	21-98	50 - 100
Preferred Employees (section 144(2) of the Companies Act and section 98A of the Insolvency Law)	100	100	50 - 100

Preferent Creditors: Statutory Obligations (section 99 of the Insolvency Law, but who will be Concurrent Creditors in business rescue) & Preferent Creditors: Taxes per any Act of Parliament (section 101 of the Insolvency Law, but who will be Concurrent Creditors in business rescue)	100	100	1 - 2
Preferent Creditors: Unperfected general notarial bonds (section 102 of the Insolvency Law, but who will be Concurrent Creditors in business rescue)	n/a	n/a	n/a
Concurrent Creditors (including outstanding amounts owing to Secured Creditors)	0	0	1 - 2
Shareholders (per share)	0	0	4.26

Where ranges of Estimated Distribution values are reflected in the table above, these are reflective of the varying outcomes that may be achieved under each of 7.2A - Proposed Investment & 7.2B – Structured Wind-Down for a Better Return.

The results and assumptions made by PwC in calculating the liquidation dividend is attached hereto as Annexure D.

- 5.3.4 Based on advice received, discussions, research and enquiries made, the BRPs believe that liquidation proceedings would take approximately 2 to 4 years to complete. The envisaged Business Rescue Proceedings will be completed in a materially shorter time frame than this.
- 5.3.5 The BRPs anticipate that approximately 1,800 jobs will be preserved should the Company return to a viable and sustainable trading business.
- 5.4 Proposal to Creditors, Employees and Shareholders:
- 5.4.1 The amount and timing of Distributions to Creditors will depend upon the successful and timeous fulfilment of the settlement proposals set out in this Business Rescue Plan.
- 5.4.2 If there is continued PCF support, and the Proposed Investment is implemented, the net effect of the Business Rescue Proceedings should result in the return of the Company to continued operations.
- 5.4.3 Preferred Employees and Creditors will be paid a Distribution, informed by Table 1 above.

- 5.4.4 The BRPs anticipate that the majority of Distributions to certain Creditors as identified in terms of this Business Rescue Plan, will be made from 1 December 2021 onwards.
- 5.5 Benefits of the Business Rescue Plan:
- 5.5.1 The benefits of the Business Rescue Plan include, amongst other things -
- 5.5.1.1 the possibility, all going according to plan, of the Company being positioned to resume trading operations on the Operations Start Date. This will further result in resumed employment for the Company's remaining Employees, the provision of flying services to its customers, and the establishment of resumed revenue with which to service its obligations;
- 5.5.1.2 at least equal or more favourable Distributions to Creditors than would arise under the alternative scenario of an immediate liquidation of the Company;
- 5.5.1.3 the saving of a significant number of jobs through the avoidance of a liquidation and thereby a loss of all jobs;
- 5.5.1.4 enhanced retrenchment benefits (relative to the liquidation scenario) for those former employees (who regrettably have been retrenched); and
- 5.5.1.5 a shorter expected time for the completion of the Business Rescue Proceedings of the Company relative to liquidation proceedings.
- 5.5.2 Affected Persons are referred to paragraph 7.5 for a more detailed summary of the benefits to be enjoyed from the successful implementation of this Business Rescue Plan.
- 5.6 Risks of the Business Rescue Plan:
- 5.6.1 However, the implementation of the proposals contained in this Business Rescue Plan is subject to factors potentially not known to the BRPs as at the Publication Date, including but not limited to amongst other things, required amendments to the Business Rescue Plan, challenges to the Business Rescue Plan, unforeseen litigation, changes in regulations and legislation, delays in returning to implementing the Retrenchment Processes, any labour action as a result of the Retrenchment Process, any regulatory challenges,

discrepancies in information made available to the BRPs, restricted access to PCF, unforeseen damages claims and / or statutory liability, and extension of restrictions on air travel.

5.7 Disputed Creditors:

5.7.1 The BRPs have accepted the Company records as being correct unless a claimant has successfully proven otherwise.

5.7.2 If any Person disputes a Claim or an alleged Claim against the Company, the Person should follow the process to resolve such a dispute as set out in paragraph 11.

5.8 Opinion of the BRPs:

5.8.1 It is the opinion of the BRPs that there remains a reasonable prospect of a successful rescue of the Company, within the meaning of the Companies Act.

5.8.2 The proposal contained in this Business Rescue Plan is reasonably anticipated to facilitate the continued existence of the Company on a solvent basis, or if that does not become possible, results in a better return to Creditors than would have resulted from an immediate liquidation of the Company.

CHAPTER 2 – PROPOSALS

6 PART A – BACKGROUND INFORMATION

6.1 Corporate and Shareholding Structure

6.1.1 Detailed corporate structure of the Group is set out in Annexure A.

6.1.2 At the Commencement Date, the Company held direct and indirect interests (controlling or otherwise) in approximately 20 companies in 3 different jurisdictions, set out in Annexure A. Apart from Comair Mozambique Limitada registered in Mozambique, and Churchill Finance Services 23 Limited and WildX Mauritius Limited registered in Mauritius, all the Company's subsidiaries and associates are registered in South Africa.

6.1.3 As at the Publication Date, the issued share capital of the Company comprised 469,330,865 ordinary shares, all held by various shareholders including, amongst others –

6.1.3.1 BB Investment Company Proprietary Limited with 26.9% shareholding;

6.1.3.2 Allan Gray with 13.8% shareholding (Unit Trusts Grouped);

6.1.3.3 Britair Holdings Limited with 11.4% shareholding; and

6.1.3.4 Innercreek Investments Proprietary Limited with 10.6% shareholding.

6.2 Directors:

6.2.1 As at the Publication Date, the Directors and officers of the Company, according to the CIPC, were:

Name of Director	Role	Date of Appointment
Wrenelle Doreen Stander	Chief Executive Officer	15-12-2019
Capt. Colin Jordaan	Independent Non-Executive Director	21-10-2019
Nompumelelo Madisa	Non-Executive Director	21-01-2020
Naran Maharajh	Lead Independent Non-Executive Director	21-02-2020

Farzanah Mall	Independent Non-Executive Director	21-01-2020
Carolina Sandra Martinoli	Independent Non-Executive Director	18-02-2019
Tebogo Mekoe	Independent Non-Executive Director	21-01-2020
Lindsay Peter Ralphs	Independent Non-Executive Chairman	29-10-2019
Njabulo Sithole	Independent Non-Executive Director	01-10-2017

6.3 Company Information as at the Commencement Date:

Financial year end	30 June
Registered business address	1 Marignane Drive Bonaero Park Kempton Park Gauteng 1619
Postal address	PO Box 7015 Bonaero Park Kempton Park 1622
Accountants / Auditors	BDO South Africa Inc.

6.4 Company background:

6.4.1 The Company has operated successfully as an aviation company since 1946. It is considered one of the largest commercial airlines in Southern Africa, has a safety record that is internationally recognised, employs over 2000 employees and operated 27 aircraft which, amongst other things, facilitates business and tourism in South Africa.

6.4.2 The Company operates its air service under the brand names of British Airways and Kulula.com. The use of the British Airways name and livery is regulated by a license agreement between British Airways and the Company. The British Airways flights are operated domestically and regionally as a full-service airline, serving complimentary food and beverages and offering a business class section. The Kulula.com flights are only operated domestically as low-cost flights, with no complimentary food and beverages (other than for on-board sales) and no business class being offered.

6.4.3 The Company is comprised of 5 business units:

- 6.4.3.1 Airline - offering scheduled and non-scheduled premium, economy and low-cost carrier airline passenger services within South Africa, sub-Saharan Africa and the Indian Ocean Islands, as its main business;
- 6.4.3.2 Hospitality - through a Subsidiary, Comair Catering Proprietary Limited, trading under the Food Directions Brand, the Company provides a range of health and other food products to various South African retailers including on-board catering and retail services to the Company's Kulula.com and British Airways branded flights. It also provides all catering and procurement to the Company's SLOW lounges. In 2009, the Company launched its SLOW Lounges and currently operates SLOW Lounges at OR Tambo International Airport in both the domestic and international terminals; Cape Town International Airport domestic terminal; King Shaka International Airport domestic terminal. The lounge located at SLOW in the City in Sandton, Johannesburg, was closed in March 2020;
- 6.4.3.3 Tourism – the Company has invested in technology to improve operational efficiency and innovative products to travel agencies and consumers in order to become the country's largest digital travel distribution network;
- 6.4.3.4 Training - the Company consolidated its existing training portfolios and expertise into a single administrative entity, the Altitude Training Academy Proprietary Limited which comprises of 3 distinct faculties, namely (a) Cabin Crew and Ground Handling; (b) Travel, Tourism and Hospitality; and (c) Pilot Training. The various training programmes are delivered through specialised entities including the Comair Training Centre, EPT Aviation Training Proprietary Limited, Global Training College South Africa Proprietary Limited, and the Learning and Development function; and
- 6.4.3.5 Technology - In 2018, the Company entered into a joint venture with an IT company, Infinea SA Holdings Proprietary Limited, establishing a jointly held company called Nacelle Proprietary Limited ("Nacelle"). On 22 May 2020, Comair acquired the remaining 50% interest in Nacelle, to become a wholly owned subsidiary of the Company. Importantly, this acquisition was made in order to protect the Company's critical data and information technology system, without which the Company would have been unable to operate its flight management software, and will be unable to commence its flight operations when unrestricted air travel is possible.

Nacelle is a service provider in aviation and related sectors, providing services such as IT operations and support, IT project deployment, process design and software development.

6.4.4 The Company has enjoyed a listing on the JSE since 22 July 1998. Such listing was suspended with immediate effect on 5 May 2020 on application of the Board in terms of section 1.10 of the JSE Listing Requirements. The Board considered this suspension to be prudent and in the best interests of shareholders, as it allows the Company and its BRPs an opportunity to explore and implement the available remedies to address the Financial Distress of the Company and in terms of the Business Rescue Proceedings.

6.5 Summary of the Business Rescue Proceedings:

6.5.1 Overview:

As provided for in the Companies Act, business rescue aims to facilitate the rehabilitation of a company that is Financially Distressed by providing for, among other things:

6.5.1.1 the temporary supervision of a company by one or more business rescue practitioners, and of the management of its affairs, business and property by such persons;

6.5.1.2 a temporary moratorium on the rights of claimants against a company or in respect of property in its possession; and

6.5.1.3 the development and implementation, if approved, of a business rescue plan to rescue the Company.

6.5.2 Objective of Business Rescue Proceedings:

6.5.2.1 The objective of the Business Rescue provisions contained in the Companies Act is, through the implementation of an approved business rescue plan, is to -

6.5.2.1.1 rescue a company by restructuring its affairs, business, property, debt and other liabilities, and equity in a manner that maximises the likelihood of the company continuing in existence on a solvent basis; or

6.5.2.1.2 if that is not possible, then it results in a better return for the company's creditors or shareholders than would

otherwise result from the immediate liquidation of the company.

6.5.3 With this Business Rescue Plan, the BRPs intend to achieve the first objective being a restructure of the Company's affairs, business, property, debt and other liabilities in order to return the Company continuing in existence on a solvent or, if that no longer becomes possible, a higher Distribution for creditors than would have resulted from the immediate liquidation of the Company.

6.5.4 Moratorium:

6.5.4.1 The moratorium imposed by section 133 (as read with section 150(2)(b)(i)) of the Companies Act prohibits any legal proceedings, including enforcement action, against the Company, or in relation to any property belonging to the Company or lawfully in its possession, from being commenced or being proceeded with for the duration of the Business Rescue Proceedings.

6.5.4.2 This means, among other things, that no person will be able to proceed in any forum against the Company for non-payment of debts during the Business Rescue Proceedings unless the BRPs or the High Court consent thereto.

6.5.4.3 The intention of a moratorium is to give the Company breathing space and to provide the Company with the best possible opportunity to develop and successfully implement the Business Rescue Plan.

6.5.4.4 The moratorium in relation to the Company took effect on the Commencement Date and is expected to remain in place until the Termination Date.

6.5.5 Business Rescue Events:

6.5.5.1 The table below sets out the salient dates on which certain events have taken place, and which will take place, during the Business Rescue Proceedings.

6.5.5.2 All notices that have been circulated to the Affected Persons of the Company can be obtained from the Company's website, being: <https://www.comair.co.za/business-rescue>

Event	Date
Issuance of retrenchment notices in terms of the LRA	23 March 2020
Board Resolution to Commence Business Rescue Proceedings and appoint the BRPs	4 May 2020
Board Resolution filed with the CIPC	5 May 2020
Commencement of Business Rescue Proceedings	5 May 2020
Appointment of BRPs	5 May 2020
First Statutory Meeting of Creditors	19 May 2020
First Statutory Meeting of Employee Representatives	19 May 2020
One-on-One meetings with the Lessors and Lenders regarding the Fleet	20 to 26 May 2020
First Meeting of the Creditors' Committee	1 June 2020
First Meeting of the Employee Representatives' Committee	1 June 2020
Consultation with the Chairperson of the Employees Representatives' Committee	3 June 2020
Consultation with the Company's Management	4 June 2020
Meeting with the Creditors' Committee	5 June 2020
Meeting with the Employees Representatives' Committee	5 June 2020
Invitation to Shareholders to comment on the strategic plan	5 June 2020
Consultation with the Chairperson of the Creditors' Committee	15 June 2020
Response to the 181 queries by the Committee of Employees' representatives	15 June 2020
Meeting with the Committee of Employees' Representatives	17 June 2020
Meeting with the Committee of Creditors	18 June 2020
Meeting with Shareholders	18 June 2020
Received a non-binding Expression of Interest from an investor #1 (subsequently withdrawn)	21 June 2020
Received a non-binding Expression of Interest from an investor #2	22 July 2020
Received a Binding Expression of Interest from an Investor #3	23 July 2020
Appointed Deloitte as Corporate Finance Advisors to assess the expression of interest	6 August 2020
Obtained short term bridge funding as PCF for August 2020	7 August 2020
Received a non-binding Expression of Interest from an investor #4	11 August 2020
Meeting with the Committee of Employees' Representatives	27 August 2020
Meeting with the Committee of Creditors	27 August 2020
Meeting with the Shareholders	27 August 2020
Publication of the Business Rescue Plan and the proposed Remuneration Agreement	2 September 2020
Notice of the meeting of to Adopt the Business Rescue Plan and the proposed Remuneration Agreement	2 September 2020
First Status Report – on or before	5 September 2020
Meeting to approve the Remuneration Agreement	18 September 2020
Meeting to approve the Business Rescue Plan	18 September 2020

6.5.5.3 The BRPs have in addition to date also held several meetings directly with various stakeholders, including Management, Trade Unions, Lenders and Lessors.

6.6 Steps taken since the appointment of the BRPs:

6.6.1 Management Control:

In terms of section 140(1)(a) of the Companies Act, the BRPs took full management control of the Company and have delegated and may continue to delegate certain functions to Management in terms of section 140(1)(b) of the Companies Act. All decisions made by the Board and/or Management (to whom authority was delegated) have been authorised by the BRPs.

6.6.2 Cash Management:

In order to maintain the liquidity of the Company whilst under its Business Rescue Proceedings, the BRPs continually monitor cash flow and financial projections, perform daily bank reconciliations, control payments and enforce general controls.

6.6.3 Reporting to CIPC

The BRPs have complied with all statutory obligations under Chapter 6 of the Companies Act and will render monthly update reports to the CIPC and Affected Persons as contemplated in section 132(3) of the Companies Act from 5 September 2020.

6.6.4 Investigations

6.6.4.1 Section 141(1) of the Companies Act requires that "As soon as practicable after being appointed, a practitioner must investigate the company's affairs, business, property, and financial situation, and after having done so, consider whether there is any reasonable prospect of the company being rescued". Most importantly however, the focus of a business rescue is a forward looking process in order to restructure the affairs, business, property and financial debts and obligations of the business.

6.6.4.2 Furthermore, if in the course of such an investigation (i.e. to consider whether or not there is a reasonable prospect that the Company can be rescued), a business rescue practitioner concludes that there is evidence of misconduct contemplated in section 141(2)(c) of the Companies Act, then the business

rescue practitioner must forward that evidence to the relevant authorities for further investigation and direct the Management of the Company to take any necessary steps to rectify the matter.

6.6.4.3 Provided however further, that if any affected party becomes aware of any evidence of misconduct by the Company, that that affected party forward that evidence to the relevant authorities for further investigation;

6.6.4.4 In the course of their investigations, into whether or not a reasonable prospect exists for the Company to be rescued, the BRPs have concluded that there is a reasonable prospect of the Company being rescued.

6.6.4.5 The BRPs have to date not found or been presented with evidence of any misconduct that would require the BRPs to take the requisite steps as contemplated in section 141(2)(c).

6.6.5 Extension of the Date for Publication of Business Rescue Plan:

6.6.5.1 In terms of section 150(5) of the Companies Act, the business rescue plan of the Company should have been published within 25 business days after the appointment of the business rescue practitioners, unless extended by such longer period as may be allowed by the holders of a majority of the Creditors Voting Interests.

6.6.5.2 In this regard, the requisite majority of creditors have supported an extension of the date for the publication of the plan from 9 June 2020 to 23 June 2020, from 23 June 2020 to 30 June 2020, from 30 June 2020 to 28 July 2020, from 28 July 2020 to 28 August 2020, and from 28 August 2020 to 2 September 2020.

6.6.6 Employees' Meetings:

6.6.6.1 The BRPs held the first statutory meeting of Employees, in terms of section 148 of the Companies Act, on 19 May 2020, where the BRPs explained the Business Rescue Proceedings process.

6.6.6.2 At the first meeting of Employees, the BRPs called for nominations for representatives to form an Employees Representatives' Committee. The BRPs received nominations

and shared the list of approved nominees with the employees on 26 May 2020.

6.6.6.3

Details of the members of the Employees' Representatives' Committee as at the Publication Date are set out in the table below:

Name	Name
Adele Cloete	Khungeka Sikwata
Adri Riekert	Kim Mackie (Zanninello)
Azana Booï	Liesel Fourie
Boitumelo Matseke	Mack Manuel
Chris Rautenbach	Mzuvumile Makaka
Chubekile Ntloko	Nangamso Gxididi
Chwayita Njokwana	Nelius Dannhauser (Cornelius)
Cilliers Jordaan	Ngineni Tshambuluka
Clio Fels-Edwards	Otto Ketse
Colin Drummond	Palesa Motshabi
Dale Ribbink	Paul Dore
Derek Mans	Peggy Ntombi Goba (Ntombi)
Eluan Jacobs	Rapule Mokoena
Fabio Braganca	Riaan Smit
Farhana Amra	Ruth Ntlokotse
Felicity Beukes	Ryan van Wijk
Frederick Mabasa	Samantha Grindlay
George Chosane	Sandi Xheke (Sandiswe)
Glen Pellew	Sello Makgoba
Glen Warden	Sipho Lukhele
Gordon Nokhanda	Solomzi Ntshangase (Solly)
Hendrik van Rooyen	Sthembele Teyi
Hynro Schoeman	Sumayyah Ally
Jacques Lemmer	Sunel Oelofse
Janek Wilmiec	Tembani Ntwana
Janita Bornman	Thabo Tsokela
Jannem Goussard	Thabo Zungu
John Evans	Theuns Dreyer
John Moloï	Thomas Hodgson
Juan van Niekerk	Tracey McCreddie
Karen Tumazos	Xolani Ntshibilili
Kelley Middleditch	Zinhle Msani
Khanyisa Mngatiwa	Sue Thomas

- 6.6.6.4 At a meeting of the Employee Representatives' Committee held on 1 June 2020, John Evans was appointed by the committee, to be its independent chairman.
- 6.6.6.5 The independent chairman of the Employees Representatives' Committee has been in constant communication with the BRPs, and the employee representatives' committee has consulted further with the BRPs on 3 June 2020, 17 June 2020, and on 27 August 2020. In addition, a comprehensive list of more than 180 questions were received from the independent chairman on 5 June 2020, and was responded to on 15 June 2020.
- 6.6.6.6 As recent as 20 August 2020, and the 27 August 2020, the BRPs have presented to the Employees and the Trade Unions on the status of the Company's business rescue proceedings, and have also been in regular contact with the Employees and Trade Unions directly and through Management, as the case may be, and the Employees Representatives' Committee's through its Chairman.
- 6.6.7 Creditors' Meetings:
- 6.6.7.1 A first meeting of creditors, as contemplated in section 147 of the Companies Act, was convened on 19 May 2020, where the BRPs explained the Business Rescue Proceedings process.
- 6.6.7.2 At the first meeting of creditors, the BRPs called for nominations for representatives to form a Creditors' Committee. The BRPs received nominations and shared the list of nominees with the creditors on 26 May 2020.
- 6.6.7.3 Details of the members of the Creditors' Committee are set out in the table below:

Name	Company
Alett Crouse	ATNS
Andre Rumble	BP (UK)
Angie Lopes	Diesel Electric Services
Brian Cripwell	E&BC Agencies CC
Candice Hunter-Linde	Engen Petroleum Limited (D5 Attorneys)
Colin Strime	Israel Aerospace Industries Limited (Fluxmans Attorneys)
Delani Pretorius	Nacelle
Dianne Dempsey	Pauli's Food Company (Pty) Ltd
Diederik Lindhout	Alterna

Eric Blumsack	Israel Aerospace Industries Limited
Fatima Abader	Engen Petroleum Limited
Gareth Cremen	Aviation Co-ordination Services (Pty) Ltd (Lawtons Africa)
Graeme Buchel	Heneways
Heinz Mommsen	EOH Network Solutions / Hymax
Jay Naik	EOH Network Solutions / Hymax
John Breslin	AVOLON
Kgolagono Leola	KWE Global Logistics Partner (CGIC Insurers)
Lara Kahn	Lessors and Lenders (Webber Wentzel)
Lwazi Gumede	ATNS
Michael Ferguson	UK Export Finance
Moses Thompson	ACSA
Mpolaheng Mohlopi	Lanserria International Airport (Pty) Ltd
Neerasha Singh	Lessors (Webber Wentzel)
Philip Slabber	Astron Energy
Ryan Lowery	KWE Global Logistics Partner
Samir Mistry	Smartboy Trading CC
Scholtz Fourie	Tourvest Travel Services
Scott Edmundson	Lessors and Lenders (Webber Wentzel)
Stefanus Meyer	SR Technics
Tounie	Tounik The Cleaning Company
Wessel de Jager	Nedbank
Zayton Bhyat	Tounik The Cleaning Company
Stavy Zahradnik	Espresso Bakery
Jessica Colyn-Schuddinh	Fresh Earth Bake House
Niv Moodley	Pesso Group
Rian Heyns	Lausanne Dairies
Rianah Garrison	Avtrade

6.6.7.4 At a meeting of the Creditors' Committee held on 1 June 2020, Haroon Laher was appointed by the Creditors' Committee, to be its independent chairman.

6.6.7.5 The independent chairman of the Creditors' Committee has been in constant communication with the BRPs, and the Creditors' Committee has consulted further with the BRPs on 5, 15 and 18 June 2020.

6.6.7.6 Since 6 July 2020, the BRP's have had a weekly meeting with the Creditors' Committee chairman.

6.6.8 Engagement with Shareholders:

6.6.8.1 The BRPs have consistently published all statutory notices and other updates to the Shareholders via SENS;

- 6.6.8.2 Any suggestions for the rescue of the Company were called for via SENS announcement on 5 June 2020.
- 6.6.8.3 The BRPs also presented certain elements of the business rescue plan for the Company at a meeting of shareholders held on 18 June 2020.
- 6.6.8.4 The BRPs consulted with the shareholders ahead of the publication of this Business Rescue Plan on 27 August 2020.
- 6.6.9 Contracts:
- 6.6.9.1 Suspension of Contracts (other than employment contracts):
- 6.6.9.1.1 Section 136(2)(a) of the Companies Act allows the BRPs to entirely, partially or conditionally suspend, for the duration of the Business Rescue Proceedings, any obligation of the Company that arises under an agreement to which the Company was a party at the Commencement Date and would otherwise become due during the Business Rescue Proceedings.
- 6.6.9.1.2 The BRPs have suspended the Company's obligations under certain agreements that will become due during Business Rescue Proceedings, and are in the process of establishing which other obligations of the Company must be suspended and consequently reserve the right to continue to do so as is necessary.
- 6.6.9.2 Cancellation of Contracts:
- 6.6.9.2.1 Section 136(2)(b) of the Companies Act allows the BRPs to entirely, partially or conditionally cancel any contract (whether or not they are entitled to do so in terms of the terms of the contract) on application to the High Court. The BRPs have requested a consensual termination of certain contracts, and are in the process of establishing which other obligations of the Company must be cancelled. The BRPs consequently reserve the right to terminate any agreement that they deem necessary to terminate, consensually or on application to the High Court.
- 6.6.9.2.2 The BRPs have engaged with certain creditors for a negotiated and / or consensual cancellation of

contracts and have, as at date hereof, not been required to approach the High Court for the purposes of cancelling any contracts.

6.6.9.3 Continuation of Contracts:

Where the BRPs determine it to be in the best interests of the Creditors and the Company to continue with contracts, the contracts have continued and remained in full force and effect, save for those contracts which have been terminated unilaterally by counterparties that have exercised their contractual rights to do so

6.6.9.4 Other Contracts:

Contracts not specifically dealt with in the above paragraphs are subject to ongoing evaluation and negotiations by the BRPs in an effort to mitigate risks and maximise the Distribution to Creditors.

6.6.10 Cost Reduction Initiatives:

Since appointment, the BRPs have made ongoing efforts to reduce operating costs wherever possible. In doing so, the BRPs have:

6.6.10.1 negotiated terms with Lessors and Lenders, with respect to the Retained Fleet; and

6.6.10.2 Continued with the Retrenchment Process;

6.6.11 Claims Reconciliation:

As at the Publication Date, the BRPs have received claim forms from some, but not from all of the creditors. A verification process has been undertaken to reconcile the Claims of creditors as reflected in the records of the Company against the claim forms received. Further details about Creditors and Claims is set out in paragraph 6.9.

6.6.12 BRPs' Remuneration:

The BRPs' Remuneration Agreement is proposed herein as Annexure J, and will be approved if supported by Creditors holding the requisite majority of Creditors' Voting Interests and, to the extent necessary, by Shareholders holding the requisite majority of Shareholders' voting rights, in terms of section 143(3) at the meeting that has been convened to Adopt this Business Rescue Plan and the

Remuneration Agreement. Further details about the Remuneration Agreement are set out in paragraph 6.11.

- 6.6.13 PCF from certain of the Lenders, Lessors and service providers:
- 6.6.13.1 Certain Lenders, Lessors and service providers have provided PCF to ensure that the Fleet be placed in storage under preservation maintenance by the aircraft maintenance and repair operators, and to keep the Fleet insured.
- 6.6.13.2 Certain Lenders have provided PCF to fund certain pre-approved operations and business rescue processes up to the Publication Date, in terms of an agreement the Company concluded with a Lenders on or about 7 August 2020
- 6.6.13.3 As at the Publication Date:
- 6.6.13.3.1 R69.0 million has been received in terms of 6.6.13.1 above;
- 6.6.13.3.2 a further R90.3 million remains due by the Company to the various service providers in terms of 6.6.13.1 above; and
- 6.6.13.3.3 R40.0 million was received as PCF in terms of 6.6.13.2 above;
- as detailed per Annexure H.
- 6.6.14 Proposed Investment from Investors:
- 6.6.14.1 A prospectus, financial model and virtual due diligence room was created in order to solicit interest and offers from potential investors in the Company. Following this process, the BRPs received several non-binding and/or conditional expressions of interest from such potential investors;
- 6.6.14.2 Following a preliminary review and evaluation of these expression of interests by the BRPs, the most substantive of these expression of interests were evaluated by the Company's corporate finance advisors, namely Deloitte, in order to determine if the offers were capable of addressing the Company's Financial Distress and, if so, which of these expression of interests would most likely be approved in terms of section 152 of the Companies Act;

- 6.6.14.3 In light of this, the Proposed Investment (set out in 7.2A), albeit conditional, was assessed as being the most suitable of the offers.
- 6.6.15 Estimation of the Probable Liquidation Dividend:
- 6.6.15.1 The BRPs engaged PwC as an independent expert to calculate the probable dividend that Creditors would receive if the Company were placed in liquidation as at the Commencement Date, appropriately adjusted for subsequent events. The probable liquidation dividend is set out in Table 1 at paragraph 5.3.3. The assumptions made by PwC in calculating the expected liquidation dividend is set out in Annexure D.
- 6.6.15.2 If any Affected Person requires details relating to the liquidation dividend calculation, such Person is invited to contact the BRPs on the details set out in paragraph 12.
- 6.6.16 General:
- 6.6.16.1 The BRPs have engaged attorneys to advise on, *inter alia*, issues relating to PCF Agreements, employment, regulatory issues, cancellation of agreements, competition and various other issues arising out of the Business Rescue.
- 6.7 Operations:
- Due to the Lock-down, the Company has not been operating since 27 March 2020 and has placed its Fleet under preservation maintenance (i.e. prolonged storage) until it can recommence its domestic flight services.
- 6.8 Material Assets and Security:
- 6.8.1 A list of the material assets of the Company at book value is set out in Annexure E, and this list also identifies the Material Assets that are encumbered;
- 6.8.2 The statement of the financial position of the Company as at 30 April 2020 (see Annexure F) shows that the Company had total liabilities of approximately R6.984 billion.
- 6.9 Creditors of the Company (Section 150(2)(a)(ii)):
- As at the Publication Date, the BRPs have received numerous claim forms from some, but not all Creditors. A verification process has been undertaken

to reconcile the Claims of Creditors as reflected in the records of the Company against the claim forms received.

6.9.1 Accepted Claims:

6.9.1.1 A list of the Creditors' claims received by the Company is set out in Annexure B. The Claims that the BRPs have accepted in whole or in part are also set out in Annexure B under the column titled Voting Interests.

6.9.1.2 Annexure B further indicates which Creditors are Secured Creditors, PCF Creditors, Concurrent Creditors, Preferred Employees, and PCF Employees. The Creditors listed in this annexure are all considered to be independent creditors for the purposes of voting in accordance with Section 145(4) and (5) on the basis that they are unable to exercise significant influence or control over the affairs and activities of the Company as detailed per 6.12.1.3;

6.9.1.3 Where no claim form was submitted, but the BRPs recognised that an amount is owing to a Creditor, the Voting Interests of such a Claim are reflected in Annexure B.

6.9.1.4 The BRPs will not be notifying Creditors in the event that their Claim/s have been accepted or rejected by the BRPs, or compromised in term of this Business Rescue Plan.

6.9.2 Disputed Creditors:

6.9.2.1 Disputed Creditors are required to prove their Claims as set out in this paragraph.

6.9.2.2 Disputed Creditors must lodge their claim forms with the BRPs within 10 days of the Publication Date.

6.9.2.3 Claims shall be proved to the satisfaction of the BRPs.

6.9.2.4 If the BRPs reject a Claim following compliance with the provisions of 6.9.2.2 and 6.9.2.3, the claimant must follow the procedure set out in paragraph 11.

6.9.2.5 If a Claim of a Disputed Creditor is determined in terms of paragraph 11 after the Payment Date, the Company shall pay to such Creditor the Distribution to which it would have been entitled had its Claim been accepted before the Payment Date unless, after the Payment Date, the Company no longer has

the requisite amount of assets to pay the Distribution in full, in which event that Creditor will be paid only a portion (if any) of the Distribution, calculated on those assets that are available to the Company at the time (if any).

6.9.2.6 Should the claimant fail to follow the procedure in this 6.9.2, it shall be deemed to have expressly waived its right to dispute the decision of the BRPs.

6.9.3 Conditional Creditors:

6.9.3.1 Any creditor who has a conditional claim, may prove it in accordance with the provisions of paragraph 6.9.2. If the BRPs reject the conditional claim, the claimant is required to follow the procedure set out in paragraph 11.

6.9.3.2 If the BRPs accept the conditional claim, and:

6.9.3.2.1 the condition is fulfilled before the Payment Date, the Claim will be admitted and a Distribution will be paid to the Creditor in terms of this Business Rescue Plan; or

6.9.3.2.2 the condition will be fulfilled after the Payment Date, then the BRPs shall deposit the Distribution in respect of such Claim into trust prior to the date on which the condition is fulfilled, as if that Distribution would have to be paid to that Creditor in terms of this Business Rescue Plan, but shall only pay over the Distribution to the Creditor when the condition has been fulfilled.

6.9.4 Employee Creditors:

6.9.4.1 No Employee shall be required to prove any part of his or her Claim, unless expressly required to do so by the BRPs.

6.9.4.2 For the purposes of the Distribution and voting on this Business Rescue Plan, the BRPs shall be entitled to accept a vote by any representative of the Employees (as Creditors), as acting on behalf of each one of those Employees (as Creditors) without any proxy having been completed by any Employee, provided that any Employee shall nevertheless be entitled to attend and vote individually in which case any vote by such representative shall yield, to that extent, to the vote of the Employee.

- 6.10 Payment Waterfall:
- 6.10.1 In terms of Sections 135 and 144 of the Companies Act, to the extent that there are funds available to pay Creditors, the Distributions to Creditors will be made in the following order of priority in terms of the Business Rescue Plan and while the Company is under Business Rescue Proceedings:
- 6.10.2 Unencumbered Assets:
- 6.10.2.1 firstly, the BRPs fees and expenses, including but not limited to the costs of the Advisors, and the Business Rescue Costs, including but not limited to operating costs and other costs associated with the Business Rescue;
- 6.10.2.2 thereafter, PCF Employees that became due and payable during Business Rescue (to the extent that they have not been paid for services rendered during Business Rescue);
- 6.10.2.3 thereafter, unsecured PCF Creditors, who will rank in the order in which such PCF was provided;
- 6.10.2.4 thereafter, Preferred Employees; and
- 6.10.2.5 lastly, Concurrent Creditors.
- 6.10.3 Encumbered Assets, to the extent relevant and/or applicable:
- 6.10.3.1 a PCF Creditor, which is also a Secured Creditor, will continue to hold their security against the Claims owed by the Company to that PCF Creditor and, where that security is not sufficient to discharge those Claims, any residual Claim of that PCF Creditor will be treated as an unsecured PCF Creditor;
- 6.10.3.2 a Secured Creditor, that is not a PCF Creditor, will continue to hold their security against the Claims owed by the Company to that Secured Creditor and, where that security is not sufficient to discharge those Claims, any residual Claim of that Secured Creditor will be treated as a Concurrent Claim.
- 6.11 BRPs' Remuneration:
- 6.11.1 The regulations to the Companies Act prescribe an hourly tariff (inclusive of VAT) for the payment of the fees of a business rescue practitioner.

- 6.11.2 The Company's public interest score at the Commencement Date was 22,532 points.
- 6.11.3 The Company is classified, in terms of regulation 26(2) read with regulation 127(2)(b)(i) of the Companies Act, as a large company in that it has a public interest score greater than 500 points.
- 6.11.4 Accordingly, in terms of regulation 127(4) and (5), the Company required the appointment of the BRPs.
- 6.11.5 The hourly rate prescribed by the tariff in Companies Regulation 128 is not market related and is outdated as it was determined in or about 2008. Accordingly, a Remuneration Agreement with the BRPs, at Annexure J, is proposed in terms of which the basic remuneration payable by the Company to each of the BRPs, shall be:
- 6.11.5.1 an initial hourly tariff of ZAR2,000.00 (including VAT), in accordance with section 143(1) of the Companies Act in accordance with the tariff prescribed in section 143(6) read with Regulation 128(1)(c) of the Companies Regulations, with effect from the Commencement Date up to the date on which the Business Rescue Plan is Adopted; thereafter
- 6.11.5.2 a revised hourly tariff of ZAR4,000.00 (excluding VAT), in accordance with section 143(2)(a) of the Companies Act on the approval and adoption of the Business Rescue Plan in terms of section 152(2) and (3) of the Companies Act, retrospectively with effect from the Commencement Date.
- 6.11.6 The provisions of the Remuneration Agreement will become final and binding on -
- 6.11.6.1 the approval in terms of section 143(3)(a) of the Companies Act by the holders of a majority of the Creditors' Voting Interests, as determined in accordance with sections 145(4) to 145(6) and 147(3) of the Companies Act; and
- 6.11.6.2 the approval, to the extent necessary, in terms of section 143(3)(b) of the Companies Act by the holders of a majority of the voting rights attached to any shares of the Company that entitle the Shareholders to a portion of the residual value of the Company on winding up,

present and voting at a meeting called for the purpose of, *inter alia*, approving the Remuneration Agreement.

6.12 Voting on the Adoption of the Business Rescue Plan:

6.12.1 Voting Interests:

6.12.1.1 In accordance with section 145(4) of the Companies Act, a Creditor is entitled to vote as follows -

6.12.1.1.1 a Creditor has a Voting Interest equal to the value of the amount due and owing to that Creditor by a Company at the time a meeting is convened to Adopt the Business Rescue Plan, equal to the value of the amount set out in Annexure B; and

6.12.1.1.2 a Concurrent Creditor who would be subordinated in a liquidation has a voting interest, as independently and expertly appraised and valued at the request of the BRPs, equal to the amount, if any, that the creditor could reasonably expect to receive on a liquidation of such company as set out in section 145(4)(b) of the Companies Act.

6.12.1.2 Subordinated Creditors:

The Subsidiaries' loan claims are subordinated as contemplated in section 145(4)(b) of the Companies Act and the BRPs have accordingly determined, pursuant to the terms of the liquidation valuation, that these Claims constitute subordinated Concurrent Creditors which will receive no dividend on a liquidation of the Company and will accordingly not have a vote on this Business Rescue Plan.

6.12.1.3 Non-Independent Creditors:

6.12.1.3.1 A creditor will not be "independent" if it is the holding company of a company, or if the creditor alone or together with any related or inter-related juristic person (i) is directly or indirectly able to exercise or control the exercise of a majority of the voting rights associated with Securities of that company, whether pursuant to a shareholders' agreement or otherwise, or (ii) has the right to appoint or elect, or control the appointment or election of, directors of that company who control a majority of the votes at a meeting of the board.

6.12.1.3.2 In accordance with sections 145(5)(a) and 145(5)(c) of the Companies Act a business rescue practitioner is

required to determine whether a creditor is independent for purpose of the business rescue.

6.12.1.3.3

For purposes of this Business Rescue Plan, the BRPs have determined that, save for the Subsidiaries, all Creditors are independent and will accordingly be counted as such for purposes of any votes cast in respect of this Business Rescue Plan.

6.12.1.4

Shareholders

6.12.1.4.1

In accordance with section 146(d) of the Companies Act, read with section 152(6), the Company's Shareholders are entitled to vote on the Business Rescue Plan insofar as it alters the rights associated with the class of Securities held by that Shareholder and/or an amendment to the Company's Memorandum of Incorporation is required.

6.12.1.4.2

The Proposed Investment, more fully described in 7.2.3, requires that the rights associated with the Securities held by Shareholders be altered and/or require an amendment to the Company's Memorandum of Incorporation.

6.12.1.4.3

Therefore, the Shareholders are required to vote on this Business Rescue Plan.

6.12.1.5

General

6.12.1.5.1

Creditors will have a Voting Interest, in respect of the Adoption of this Business Rescue Plan, equal to the value of the amount set out in Annexure B.

6.12.1.5.2

Shareholders will have a voting right in respect of the approval of the Business Rescue Plan, equal to the number of Securities held by each of them.

6.12.1.5.3

PCF Creditors, including PCF Employees, will have a voting interest equal to the value of the amount presently owed to that creditor and as set out in Annexure B and Annexure H.

6.12.1.5.4

For the purposes of the meeting called to vote on the Adoption of this Business Rescue Plan, the BRPs shall be entitled to accept a vote by any representative of the

Employees as acting on behalf of each one of those Employees with proxy having been completed by any Employee, provided that any Employee shall nevertheless be entitled to attend and vote individually in which case any vote by such representative shall yield, to that extent, to the vote of the Employee.

6.12.1.6

Vote by Proxy

Voting by proxy will be allowed. A proxy form for Creditors is enclosed as Annexure L and a proxy for Shareholders is enclosed as Annexure O. These Affected Persons are required to lodge their forms of proxy by no later than 12h00 on 15 September 2020. All forms of proxy given on behalf of Person must be accompanied by a valid and authorised resolution supporting the appointment of the proxy. Notwithstanding this, the BRPs have a discretion to accept any proxy submitted.

6.12.1.7

Proposals made informally by a Creditor:

The Business Rescue Plan does not include any proposal made informally by a Creditor of the Company as envisaged in terms of section 150(2)(a)(vi),

7 PART B – TERMS OF THE PROPOSALS TO AFFECTED PARTIES

7.1 Objective of the Proposal:

7.1.1

The purpose of the business rescue provisions contained in the Companies Act, as set out in section 7(k) of the Companies Act, 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.

7.1.2

The objective of business rescue, as set out in section 128(1)(b)(iii) of the Companies Act, is to develop and implement a Business Rescue Plan that rescues the Company –

7.1.2.1

by restructuring its affairs, business, property, debt and other liabilities, and equity in a manner that maximises the likelihood of the company continuing in existence on a solvent basis; or

7.1.2.2

if the aforementioned is not possible, results in a better Distribution return for the company's creditors or shareholders

than would result from the immediate liquidation of the company.

7.1.3 This Business Rescue Plan aims to give effect primarily to the first objective, and if the first objective cannot be achieved, to the second objective.

7.1.4 This Business Rescue Plan aims to provide Affected Persons with information so that they may assess the possibility, and be reasonably assured, of receiving a better return in Business Rescue than in a liquidation.

7.2 Terms of the Proposals:

7.2.1 In preparing the Business Rescue Plan, the BRPs have taken into consideration both the probable liquidation dividend, as set out in Table 1 at paragraph 5.3.3 above, the views expressed by Affected Persons. The Proposal set out herein consist of two parts, namely A - the conclusion of the Proposed Investment on fulfilment of the Suspensive Conditions or, if that cannot be achieved, B - a structured Wind-Down of the Company.

7.2A – CONCLUDE THE PROPOSED INVESTMENT FROM THE INVESTORS

7.2.2 Investors PCF:

7.2.2.1 The Investors will make an interest free PCF loan facility ("**the Investor Facility**") available to the Company, upon Adoption of the Business Rescue Plan once a loan facility agreement has been concluded and the appropriate documentation have been lodged for registration of security over certain of the Company's assets in order to secure the obligations owed by the Company to the Investors under the Investor Facility agreement, up to a maximum of R100 million as follows:

7.2.2.1.1 R50 million will be drawn down by the Company on 21 September 2020 (or if the security required is not registered by that date, as soon as it is registered); and

7.2.2.1.2 a further R50 million will be drawn down by the Company on 1 October 2020 (or if the security required is not in place by that date, as soon as it is in place).

7.2.3 Investors Equity:

- 7.2.3.1 Further, upon fulfilment of the Suspensive Conditions set out in 8.1.1:
- 7.2.3.1.1 the monies owed to the Investors under the Investor Facility will be converted into Securities in the Company, and the Investors will accordingly no longer be PCF Creditors of the Company in respect of any Claim under the Investor Facility and all necessary steps to deregister the security will be taken by the Investors and the Company within 14 days from date of the conversion to Securities or as soon as is practicable thereafter;
- 7.2.3.1.2 the Investors will immediately also provide equity capital to the Company in the sum of R400 million in order for the Investor to become a 99% Shareholder in the Company;
- 7.2.3.1.3 the total Investor Equity to recapitalise the Company will accordingly amount to R500 million.
- 7.2.4 If this Business Rescue Plan is approved by the existing Shareholders, their attention is drawn to the fact that such approval will, inter alia, constitute an approval as contemplated in section 152(3)(c) of the Companies Act.
- 7.2.5 Additional debt funding:
- 7.2.5.1 The Investors have negotiated and agreed that pre-payments will be made to the Company by Discovery Limited up to the amount of R100 million in respect of services that could be provided by the Company to members of the Discovery Group including the Vitality subsidies. These funds are expected to be advanced to the Company upon the Operations Start Date and against the fulfilment of various conditions and are to be treated as PCF, which will be set off against future ticket sales over the ensuing period of approximately 12 months;
- 7.2.5.2 The Investors have made application to certain of the South African Lenders for the provision of new net debt funding totalling R600 million (after the possible repayment of existing debt) to the Company. The provision of this debt funding is subject to credit approval and the conclusion of agreements in forms and substance satisfactory to these lenders. This funding will only be provided after fulfilment, or waiver by the

Investor, of the Suspensive Conditions set out in 8.1.1 and the provision of the Investors Equity in terms of 7.2.3.

7.2.6 Fleet optimisation:

7.2.6.1 Currently the Company has 20 aircraft remaining in its Fleet;

7.2.6.2 The Investor's strategy aims to improve on historic levels of revenue by leveraging the strength of kulula.com's and British Airways' brands, especially given the potential opportunity emanating from the possible rationalisation by domestic competitors, and increasing total passenger volumes by operating additional aircraft in the future.

7.2.6.3 The Investor's Fleet strategy envisages that that the Retained Fleet will ultimately consist of 25 aircraft – 15 owned and 10 leased.

7.2.6.4 However, should future market conditions prevail, the Investors may wish to rationalise the Fleet, and conversely, should conditions improve beyond expectation, add to the Fleet.

7.2.6.5 Further, certain Lease Agreements between the Company and identified Lessors have terminated and such aircraft have, or are in the process of, being returned to those Lessors, and removed from the Company's Fleet list and insurance. The maintenance and repair operators have been advised to release the relevant aircraft from preservation maintenance.

7.2.7 Mothballing of the Company's Fleet:

7.2.7.1 The Fleet, as presently comprised and, once optimised, the Retained Fleet will continue to be placed under preservation maintenance (i.e. mothballed) for a period of approximately 7 months from the Commencement Date with the intention to resume operations by approximately 1 December 2020;

7.2.7.2 Provided however, it is the desire and intention of the Investors to re-commence domestic passenger services earlier than 1 December 2020, and the Company will endeavour to do so as soon as practical, but subject to fulfilment of the Suspensive Conditions;

7.2.7.3 Funding for purposes of recommencing domestic air travel will be sourced from the Investors Equity and the new debt funding contemplated in 7.2.5, which will recapitalize the Company.

7.2.8 Proposal to the Lenders:

7.2.8.1 The existing indebtedness owed by the Company to each of the Lenders will, subject to the Lenders obtaining relevant credit approvals and any other approvals as might be required, and otherwise subject to such other terms and conditions as the Lenders may require, after the Suspensive Conditions have been met, be subject to:

7.2.8.1.1 deferral of capital payments due and payable to the Lenders under their respective facilities of 12 months from the Commencement Date added to the extension of the original facilities agreements by the same period; and

7.2.8.1.2 deferral of interest payments and other costs due and payable to the Lenders under their respective facilities by 8 months from the Commencement Date.

7.2.8.2 Except as otherwise set about above, each of the Lenders' terms and conditions, including Lenders rights and remedies under their respective transaction security will otherwise continue to apply, unless the Investors and the respective Lenders agree to revised terms and conditions;

7.2.8.3 Any amendments to the Lenders' existing terms and conditions arising from the arrangements proposed in 7.2.8.1 above, will be reduced to writing in the form of addendums to the existing lending and related agreements and will be subject to such approvals as the Lenders may require;

7.2.8.4 To the extent which the Lenders have provided PCF, they will be treated as PCF Creditors; and

7.2.8.5 Lenders to whom any other obligations are due by the Company, including any contractual damages claims, howsoever arising before or during the Business Rescue Proceedings will be treated as Secured Creditors. In this regard, the Lenders are referred to 6.10.3.2.

7.2.9 Proposal to the Lessors:

7.2.9.1 The terms governing four leased aircraft, forming part of the Retained Fleet, have been renegotiated on terms that are in

the best interest of the Company. In particular, this Lessor and the Company have agreed to amended terms, including a 12-month moratorium on all lease payments, a moratorium of all maintenance reserve payments due by the Company to these Lessors from the Commencement Date, and a reduction in future rental payments following the Operational Start Date, and an agreed extension of the term of these Lease Agreements based upon the Investors requirements.

- 7.2.9.2 It is the intention of the Company to renegotiate all remaining leased aircraft in the Retained Fleet on the same basis and terms.
- 7.2.9.3 Any amendments to the Lessors' existing terms and conditions arising from the arrangements proposed in 7.2.9.1 and 7.2.9.2 above, will be reduced to writing in the form of addendums to the existing lease and related agreements and will be subject to such approvals as the Lessors may require;
- 7.2.9.4 Where Lessors' aircraft are not part of the Retained Fleet, the BRPs have and will continue to assist those Lessors with the return of possession of those aircraft, subject to the Company not incurring any costs in respect thereof;
- 7.2.9.5 To the extent which the Lessors have provided PCF, they will be treated as PCF Creditors; and
- 7.2.9.6 Lessors, to whom any other obligations are due by the Company, whether or not their aircraft are part of the Retained Fleet, howsoever arising before or during the Business Rescue Proceedings, other than Disputed Claims, will be treated as accepted Concurrent Creditors.
- 7.2.10 Proposal to the Company's Shareholders:
 - 7.2.10.1 The Securities of the Company's current Shareholders will be substantially diluted, in terms of clause 7.2.3 above which, as is apparent Suspensive Conditions, will require a delisting of the Company from the JSE. However, given the high level of Financial Distress in the Company, and consistent with the anticipated outcome of liquidation as calculated by PwC, this is no worse an outcome for Shareholders than in the case of a liquidation.
- 7.2.11 Proposal to the Company's Customers:

- 7.2.11.1 The Company's Customers are very important stakeholders and, those of them who have Unused Reservations, have been provided the option to either:
- 7.2.11.1.1 Keep the value of the booking. The value of the Customer's flight booking remains valid until 31 March 2021 and can be used to make a future flight booking with Comair, subject to availability and difference in rates, fares and/or taxes;
- 7.2.11.1.2 Become a creditor. The Customer's will be treated as Concurrent Creditors; or
- 7.2.11.1.3 Forfeit the value of the ticket: Any claim is expressly abandoned.
- 7.2.12 Proposal regarding Unused Third Party Reservations:
- 7.2.12.1 Unused Third Party Reservations with certain hospitality and travel institutions were booked by the customers of third parties with the Company.
- 7.2.12.2 The Company was not acting as principal, but was acting as agent for these third parties.
- 7.2.12.3 Where the Company has received or will receive refunds from the hospitality and travel institutions with whom the bookings were made and where the Company is legally obliged to do so, the Company will process refunds to the customers of the third parties, holding Unused Third Party Reservations.

7.2B – A STRUCTURED WIND-DOWN FOR A BETTER RETURN

- 7.2.13 In the event that the Suspensive Conditions have not been fulfilled or waived, as the case may be, and/or the Proposed Investment is incapable of being concluded for whatsoever reason, the BRPs will proceed to wind down the operations and activities, and realise the assets of the Company in a structured manner, in order to achieve a better return to creditors than would result in the liquidation of the Company.
- 7.2.14 The key drivers for achieving a better return include that professional fees would be lower in the Wind-Down compared to a liquidation scenario; and Distributions should be paid sooner than in a Liquidation.

- 7.2.15 In order to achieve such an outcome, all of the Company's assets will be realised by the BRPs through the sale of all of the Company's assets in a structured manner, by way of private sale treaty or public auction, as opposed to the sale of the Company as a going concern. In this regard, the BRPs are aware of expressions of interest from various parties for the purchase of certain of the Company's assets
- 7.2.16 The Company's material assets are set out in Annexure E.
- 7.2.17 Due to the nature of the assets, the BRPs have taken a prudent approach, in both the quantum and timing, in the calculation of a possible Distribution.
- 7.2.18 Where any asset is held as security by a Secured Creditor, the proceeds from a sale of such asset will be applied to the Claims of the Secured Creditor, first, and in the case of a surplus then to the Claims of other Creditors, in accordance with the payment waterfall set out in paragraph 6.10.
- 7.2.19 Refer to paragraph 5.6 for Risks of the Business Rescue, which could affect the realisation of these assets.

7.2C - TERMS OF THE PROPOSALS APPLICABLE IN THE EVENT OF EITHER 7.2A or 7.2B

- 7.2.20 Irrespective of whether or not A - the Proposed Investment (7.2.2 to 7.2.12.3) is concluded or, if the Suspensive Conditions are not fulfilled, B - a structured Wind-Down (paragraph 7.2.13 to 7.2.19 inclusive) is proceeded with, the proposals set out below will apply:
- 7.2.21 Proposal to Secured Creditors:
- 7.2.21.1 a PCF Creditor, which is also a Secured Creditor will in the case of the Proposed Investment continue to hold their security against the Claims owed by the Company to that PCF Creditor, and, should the Suspensive Conditions not be met and a Wind-Down occur, where that security is not sufficient to discharge those Claims, any residual Claim of that PCF Creditor will be treated as an unsecured PCF Creditor;
- 7.2.21.2 a Secured Creditor, that is not a PCF Creditor, will in the case of the Proposed Investment continue to hold their security against the Claims owed by the Company to that Secured Creditor, and, should the Suspensive Conditions not be met and a Wind-Down occur, where that security is not sufficient to

discharge those Claims, any residual Claim of that Secured Creditor will be treated as a Concurrent Claim.

7.2.22 Proposal to the PCF Employees:

7.2.22.1 PCF Employees will have a PCF Claim against the Company for employment related claims, not waived in terms of Annexure K, that became due and payable during Business Rescue (to the extent that they have not been paid for services rendered during Business Rescue), will be reimbursed by the Company;

7.2.22.2 However, should the Suspensive Conditions not be met and a Wind-Down occur, PCF Employees will, for any claim of unpaid remuneration, reimbursement for expenses or other amount of money relating to employment due and payable during the Business Rescue Proceedings, receive a Distribution, which shall be guided by Table 1, after the payment of the BRPs' remuneration and expenses and the costs of the Business Rescue Proceedings.

7.2.23 Proposal to the unsecured PCF Creditors:

Unsecured PCF Creditors, will receive a Distribution, as guided by Table 1, after the payment of the Business Rescue Costs and PCF Employees.

7.2.24 Proposal to the Preferred Employees:

Preferred Employees will, for any claim of unpaid remuneration, reimbursement for expenses or other amount of money relating to employment due and payable prior to the Commencement Date, receive a Distribution, as guided by Table 1, after the payment of the Business Rescue Costs, PCF Employees, and PCF Creditors, over a period of 12 months from the Substantial Implementation Date.

7.2.25 Proposal to the Concurrent Creditors:

The Concurrent Creditors will receive a Distribution, as guided by Table 1, over a period of 24 months from the Substantial Implementation Date.

7.3 Effects of the Proposal:

7.3.1 Effect of the Business Rescue Plan on Creditors (Section 150(2)(b)(v)):

- 7.3.1.1 The adoption and implementation of this Business Rescue Plan will, save as otherwise provided for in this clause 7.3, be in full and final settlement of the Creditors' claims against the Company, whether actual or contingent, known or unknown, from whatsoever cause and howsoever arising, whether recorded or not, in all cases where the claim existed as at the date of approval of this Business Rescue Plan or arises on the adoption of this Plan. For the avoidance of doubt, any past or prospective claim which SARS may have against the Company, under section 22(3) of the Value Added Tax Act No. 89 of 1991, or in respect of an audit under the Tax Administration Act 28 of 2011 for any years of assessment preceding the Substantial Implementation Date, or otherwise, will be Expunged under and in terms of this Business Rescue Plan as a Concurrent Creditor. In other words, SARS will be unable to initiate and/or take any recovery steps to collect such tax debt.
- 7.3.1.2 It is specifically recorded that all liabilities, provisions and obligations, of whatsoever nature and howsoever arising, of the Company, save as otherwise provided for in this clause 7.3, are compromised in terms of this Business Rescue Plan, and accordingly Expunged in terms of section 150(2)(b)(ii), read with sections 152(4) and 154 of the Companies Act.
- 7.3.1.3 To the extent that contracts are cancelled, modified, suspended or restructured, a Creditors' Claim for damages will be limited as contemplated in paragraph 6.9.2 and 7.3.1.4.
- 7.3.1.4 Any Creditors' Claims for damages, whether contractual or delictual, against the Company, if accepted by the BRPs in their sole discretion or by way of the Dispute Resolution Mechanism set out in 11 or by court or similar proceedings, will be treated as follows—
- 7.3.1.4.1 as Concurrent Creditors, unless the Creditor holds security for such Claim;
- 7.3.1.4.2 shall be limited to general damages. For purposes hereof, general damages are those which, on an objective basis, would be reasonably foreseeable at the time of entering into the relevant contract as a probable consequence of, and with a sufficiently close connection to, any breach by the Company of such

contract so as to be said to flow naturally and generally and not to be too remote;

7.3.1.4.3 shall exclude any and all consequential (including any loss of profit) and indirect damages; and

7.3.1.4.4 if disputed, shall be resolved in terms of the Dispute Resolution Mechanism, detailed in paragraph 11.

7.3.1.5 The BRPs, along with the assistance of the Investors, undertake that the Company shall ensure that all Tax obligations (including the filing of returns and the payment of outstanding Taxes) arising from the Commencement Date, save for any prospective Tax obligations contemplated in 7.3.1.1, will be met until the Business Rescue Proceedings have been terminated on any ground listed in terms of section 132 of the Companies Act.

7.3.2 Effect of the Business Rescue Plan on Employees (Section 150(2)(c)(ii)):

7.3.2.1 Employees continued to be employed by the Company.

7.3.2.2 As has been explained to the Employees by the BRPs, no Employee has or will receive any form of remuneration or accrue annual leave for so long as the it is impossible for the Company to operate and while services are consequently not being rendered, and no Employee will be receiving any discretionary increase or bonuses whilst the Company is in Business Rescue.

7.3.2.3 The Business Rescue Proceedings are expected, through the restructuring, to save approximately 1,800 jobs.

7.3.2.4 However, whilst the BRPs have tried to limit job losses wherever possible, the Retrenchment Processes were and are still required given the Financial Distress of the Company.

7.3.2.5 Where possible, the BRPs will support, endorse and aide those affected by the Retrenchment Processes in their efforts to secure alternative employment.

7.3.2.6 The Retrenchment Processes will result in a better result, and as a consequence, enhanced payments to those former employees who have been retrenched, relative to the alternative had the Company been liquidated.

7.3.2.7 In order to give effect to the Proposed Investment in this Business Rescue Plan, the BRPs must as a Suspensive Condition continue with the Retrenchment Process that the Company started prior to the Commencement Date. The details about these processes are set out below:

7.3.2.7.1 Prior to the Commencement Date the Company initiated a section 189A large scale retrenchment process in terms of the LRA;

7.3.2.7.2 The section 189A process has been stayed by tacit agreement between parties, notwithstanding legal opinions, until after the publication of the plan;

7.3.2.7.3 The BRPs intend to finalise this process without delay following the adoption of the Business Rescue;

7.3.2.7.4 Voluntary Severance Packages have also been offered to a number of qualifying employees;

7.3.2.7.5 This Retrenchment Process is expected to result in the exit of affected employees, which will upon conclusion of the 189A process result in a proposed final complement of 1,800 employees.

7.3.2.8 It is further a Suspensive Condition of the Proposed Investment that a collective agreement be agreed with the Trade Unions, for the total reduction of 400 hundred jobs in the course of a retrenchment process in terms of section 189 or 189A of the LRA, as the case may be, in the numbers and categories acceptable to the Investors, prior to the Adoption of the Business Rescue Plan (or such later date as may be agreed between the Investors and the BRPs) and to be given effect to in accordance with fair and objective criteria contemplated in section 189/189A of the LRA, within 30 days of Adoption of the Business Rescue Plan.

7.3.3 Legal Status of Employees Claims:

7.3.3.1 Contractual claims (arising other than from any remuneration, reimbursement for expenses or other amount of money relating to employment) of former employees whose employment was terminated prior to the Commencement Date under any agreement whatsoever and howsoever arising and to which the Company was a party at the commencement of

the Business Rescue Proceedings and would otherwise become payable during these proceedings, any and all obligations that the Company may have to pay any such amounts is suspended with immediate effect and for the duration of the Business Rescue Proceedings. Those former employees may accordingly have a claim for damages against the Company in terms of section 136(3) of the Act, as a result of this suspension and are referred to paragraph 7.3.1.4.

7.3.3.2 Claims due and owing before the Commencement Date - insofar as any Employee or former employee may have a Claim for any remuneration, reimbursement for expenses or other amount of money relating to employment, which became due and payable prior to the Commencement Date, that Employee will be a Preferred Employee with a preferred unsecured claim in terms of section 144(2) of the Act.

7.3.3.3 Continued employment while the Company is in Business Rescue – as at the Publication Date it continues to be impossible for the Company to commence operations and the legal principle of no-work-no-pay continues to find application. However, insofar this position is disputed, and where Employees claim that in law they have a PCF claim and are therefore PCF Employees, they are asked to agree to a waiver of any such PCF Claims (save in respect of medical aid premiums) in terms of Annexure K, as it is a Suspensive Condition to the implementation of the Proposed Investment. When the Proposed Investment is concluded and it does become possible for the Company to recommence its flying operations (estimated date being 1 December 2020), the payment of salary and benefits, as may have been renegotiated per the Suspensive Conditions, will take place, in the ordinary course. Further, those Employees who are necessary for the restart of the Company's flying operations will be asked to agree to an hourly tariff for any services rendered to the Company prior to the Operations Start Date;

7.3.3.4 Retrenchment while the Company is in Business Rescue in respect of any Employee who is forcibly retrenched - if any severance payment is or becomes due and payable during the Business Rescue Proceedings, and where the Company remains in Business Rescue, then the Employee will be a PCF Employee and payment will be made once the Company has generated sufficient funds to discharge the full payment of the severance package.

- 7.3.3.5 Continued employment and subsequent liquidation of the Company in respect any Employees who are **not retrenched** - if the Company goes into liquidation, such Employees will be PCF Employees and will be paid any remuneration, reimbursement for expenses or other amount of money relating to employment that has become due and payable during the Company's Business Rescue Proceedings, from the available free residue of the Company, after the costs of liquidation and after the BRPs' fees and expenses have been paid, but before any other Preferent Creditors are paid.
- 7.3.3.6 Retrenchment and subsequent liquidation of the Company in respect of any Employee who **is forcibly retrenched** - if any deferred severance payment becomes due and payable during the Business Rescue Proceedings, and the Company is subsequently placed in liquidation, then the Employee is a PCF Employee and will be paid his/her deferred severance package from the available free residue of the Company, after the costs of liquidation and after the BRPs' fees and expenses have been discharged, but before any other Preferent Creditors are paid.
- 7.3.3.7 Claims due and owing before the Commencement Date and subsequent liquidation of the Company - insofar as any Employee may have a Claim for any remuneration, reimbursement for expenses or other amount of money relating to employment, which became due and payable prior to the Commencement Date, that Employee will be a Preferent Creditor (in terms of Insolvency Law) up to the amounts set out below –
- 7.3.3.7.1 for 3 month's salary as a result of the suspension of employment, prior to the liquidation, up to a maximum of R12 000;
- 7.3.3.7.2 leave pay (which has accrued as a result of employment in the year of insolvency or the previous year, whether or not payment is due at the date of liquidation) up to a maximum of R4 000;
- 7.3.3.7.3 any other form of paid leave (for example, possibly maternity leave) up to a maximum of R4 000; and
- 7.3.3.7.4 severance/retrenchment pay due to the employee in terms of any law, agreement, contract, wage regulating measure, or as a result of termination of the

employment contract (in respect of the latter, one week's remuneration for each completed year of continuous service, up to a maximum of R12 000).

- 7.3.4 Effect of the Business Rescue Plan on Directors and Management:
 - 7.3.4.1 As at the Publication Date, the Board of the Company has remained intact since the Commencement Date, and the Directors have continued to exercise the functions of directors, subject to the authority of the BRPs.
 - 7.3.4.2 The obligation of the Company to pay any amounts due to the non-executive directors has been suspended for the duration of the Business Rescue Proceedings.
 - 7.3.4.3 Management continues to work with the BRPs as set out herein and are receiving reduced remuneration payments in the ordinary course and subject to the principles of no-work-no-pay and impossibility of performance.
 - 7.3.4.4 The Proposed Investment contemplates the appointment of certain executive managers, and certain executive and non-executive directors.
- 7.4 Implementation of the Business Rescue Plan.
 - 7.4.1 The success of any business rescue plan lies in the ability of all of the stakeholders participating in, and cooperating with, the BRPs to successfully implement the Proposals contained in this Business Rescue Plan;
 - 7.4.2 The Proposed Investment has a target deadline for:
 - 7.4.2.1 recommencement of domestic air travel by approximately 1 December 2020; and
 - 7.4.2.2 a Substantial Implementation Date on or before 31 March 2021, as set out in paragraph 8.3.
- 7.5 Benefits of Adopting the Business Rescue Plan compared to Liquidation (Section 150 (2) (b) (vi)):
 - 7.5.1 The benefits to Affected Persons of adopting the Business Rescue Plan compared to a liquidation are as follows –

- 7.5.1.1 Liquidation Dividend - According to PwC, the dividend that would be received by Creditors on a liquidation of the Company would be significantly lower than the Distribution that is anticipated to be received by Creditors as a result of the Business Rescue.
- 7.5.1.2 Timing - Typically a business rescue will be concluded in a far shorter time than that of a liquidation.
- 7.5.1.3 Fees and Costs - The BRPs submit that the costs of the Business Rescue will be significantly lower than the liquidation costs that would be incurred if the Company was to be liquidated. The estimated fees a liquidator would be entitled to would be based on a percentage of the gross realisation of the Company's assets.
- 7.5.2 Employees:
- 7.5.2.1 While Employees continue to be employed:
- 7.5.2.1.1 those Employees who are necessary for the restart of the Company's flying operations will be asked to agree to an hourly tariff for services rendered to the Company prior to Operations Start Date
- 7.5.2.1.2 they will only receive full salaries and benefits, as may have been renegotiated, for services to be rendered from the Operations Start Date onwards.
- 7.5.2.2 If Employees are forcibly retrenched, they will receive full retrenchment packages in the event of any retrenchments as have been set out above.
- 7.5.2.3 In a liquidation –
- 7.5.2.3.1 all jobs will be lost immediately unless the liquidator agrees to continue trading against an indemnity. In the current circumstances, it is highly unlikely that a liquidator would agree to continue trading or that a liquidator would be indemnified against trading losses;
- 7.5.2.3.2 Employees would be entitled to receive a maximum amount of R28 000 per employee, to the extent that there are funds available, and would be treated as a Concurrent Creditor for any balance; and

- 7.5.2.3.3 Employees will only receive payment once the final liquidation and distribution account has been approved at the end of the liquidation process.
- 7.5.3 PCF - The Lenders were not prepared to provide funding to the Company in an informal process, other than as PCF in Business Rescue.
- 7.5.4 SARS - SARS ranks as a Concurrent Creditor under Business Rescue, whereas, under liquidation, SARS would rank as a Preferent Creditor. In a liquidation, then, the dividend to Concurrent Creditors would be reduced by the Claim of SARS.
- 7.5.5 Protecting Goodwill - By resuming operations by approximately 1 December 2020 during the peak holiday season, the BRPs are able to preserve the goodwill of the Company and its market share. A liquidator would only consider to continue to trade provided if he/she received an indemnity to cover him/her for any losses in trading. Given the circumstances, it is highly unlikely that this would happen. As a result, the liquidator would proceed with a fire sale of the Company's assets, thus realising far lower values.
- 7.6 Binding Nature of this Business Rescue Plan:
- 7.6.1 The BRPs draw the attention of Affected Persons to the provisions of section 154(2) of the Companies Act.
- 7.6.2 This section provides that once a business rescue Business Rescue Plan has been adopted, it is binding on the company, its creditors and every holder of the its securities (the latter in terms of the provisions of section 146(d) and 152(3)(c) of the Companies Act) whether or not such a person was –
- 7.6.2.1 present at the meeting to determine the future of the company;
- 7.6.2.2 voted in favour of adoption of the business rescue Business Rescue Plan; or
- 7.6.2.3 in the case of creditors, has proven a claim against the company.

8 PART C – ASSUMPTIONS AND CONDITIONS

- 8.1 Suspensive Conditions:

- 8.1.1 The Proposed Investment, as set out in 7.2.2 to 7.2.12.3, is subject to the following Suspensive Conditions that -
- 8.1.1.1 prior to the Adoption of the Business Rescue Plan (or such later date as may be agreed between the Investors and the BRPs), a collective agreement be agreed with the Trade Unions, for the total reduction of 400 hundred jobs in the course of a retrenchment process in terms of section 189 or 189A of the LRA, as the case may be,, in the numbers and categories acceptable to the Investors, and to be given effect to in accordance with fair and objective criteria contemplated in section 189 of the LRA, within 30 days of Adoption of the Business Rescue Plan;
- 8.1.1.2 on or before 17h00 on the business day immediately preceding 18 September 2020 (or such a later date as is agreed in writing between the Investors and the BRPs), the Investors confirming that they have secured, on behalf of the Company, credit approval from one or more of the Lenders for the provision of new net debt funding totalling R600 million (after the possible repayment of existing debt) to the Company, and a 12 month capital repayment deferral and an 8 month interest payment deferral (with effect from the Commencement Date) as contemplated in 7.2.8.1. However, failing this, the Investors being able to make adequate alternative financing arrangements;
- 8.1.1.3 this Business Rescue Plan shall be Adopted;
- 8.1.1.4 on or before 30 November 2020
- 8.1.1.4.1 the Company must reach agreement by negotiation with the Trade Unions, and the majority of the Company's then current Employees in each category, such that –
- 8.1.1.4.1.1 new or amended terms and conditions of employment, acceptable to the Investor, are agreed between the Company and its pilots, cabin crews and airport check-in staff;
- 8.1.1.4.1.2 an Employee waiver agreement is concluded by the Company's then current Employees in the form of Annexure K;

- 8.1.1.4.1.3 completion of the Retrenchment Processes, within 30 days of Adoption of the Business Rescue Plan;
- 8.1.1.4.2 the Company terminating the agreement with Sabre Inc., a Delaware corporation, as is necessary to achieve a common Amadeus hosting platform;
- 8.1.1.4.3 the Company receiving all necessary regulatory and Company law approvals which are legally required for the implementation of the transaction;
- 8.1.1.4.4 insofar as competition approval is concerned, the transaction being approved unconditionally by the relevant Competition authorities, alternatively subject to such conditions which, in the Investors' sole and absolute discretion, will have no material negative impact on the future profitability or viability of the Company, with such conditions requiring the sole acceptance, in writing, of the Investors;
- 8.1.1.4.5 unless an alternative mechanism to acquire equity is agreed between the Investors and the Company –
- 8.1.1.4.5.1 conversion of all par value shares in the Company's authorized and issued share capital to no par value shares;
- 8.1.1.4.5.2 authorisation of an additional 50,000,000,000 ordinary no par value shares, resulting in a total authorized share capital of 51,000,000,000, alternatively, such other number which is acceptable to the Investors to enable them to acquire not less than 99% of the number of shares in issue in the Company's share capital;
- 8.1.1.4.6 approval by special resolution of Shareholders in terms of section 41(3) of the Companies Act for issue of so many new shares in the Company, as will result in the Investors holding 99% shareholding in the Company;
- 8.1.1.4.7 an approval of 75% of Shareholders present and voting in terms of section 5.5.1 of the JSE Listing Requirements for the issue of shares to Investors as a specific issue of new shares for cash, as will result in

- the Investors holding 99% shareholding in the Company;
- 8.1.1.4.8 an ordinary resolution of the Shareholders approving the delisting of the Company's shares from the JSE lists, in conjunction with an offer that would be required to be extended to the Company's Shareholders.
- 8.1.2 Each Party shall use reasonable endeavours to procure the fulfilment of the Suspensive Conditions as soon as practically possible after the Business Rescue Plan has been Adopted.
- 8.1.3 The Suspensive Conditions are expressed to be solely for the benefit of the Investors, which may, by giving written notice to Company and the BRPs in writing on or before the date for fulfilment of the Suspensive Conditions, waive such Suspensive Conditions.
- 8.1.4 If the Suspensive Conditions are not fulfilled or waived, as the case may be, for any reason whatsoever before 30 November 2020, before 30 November 2020 or such later date as may be agreed in writing by the Investors and the BRPs, then -
- 8.1.4.1 The BRPs will proceed to implement the Wind-Down of the company in terms of 7.2B (paragraph 7.2.13 to 7.2.19 inclusive);
- 8.1.4.2 the Proposed Investment will lapse and no longer be of any force or effect, save that the funding provided in terms of 7.2.2.1 will be treated as PCF for purpose of the Wind-Down;
- 8.2 Termination of the Business Rescue Proceedings
- 8.2.1 The Business Rescue Proceedings will terminate (Section 150(2)(c)(iii))
- 8.2.1.1 if the Business Rescue Plan is proposed and rejected and no Affected Person/s act in any manner contemplated by the Companies Act; or
- 8.2.1.2 this Business Rescue Plan is Adopted and implemented and the BRPs have filed a notice of substantial implementation of the Business Rescue Plan with the CIPC;
- 8.2.1.3 the BRPs file a notice of termination of the Business Rescue Proceedings with the CIPC; or

- 8.2.1.4 a High Court orders the conversion of the Business Rescue into liquidation.
- 8.3 Substantial Implementation:
- 8.3.1 The Substantial Implementation Date (Section 150(2)(c)(i)(bb)) will be deemed to have occurred in the sole discretion of the BRPs, once:
- 8.3.1.1 the Investors PCF and Investors Equity has been received by the Company, or alternatively, the Wind-Down has been completed;
- 8.3.1.2 the BRPs have adjudicated all Claims, all Disputed Claims are in the process of being resolved in terms of paragraph 11, and the BRPs have put in place a mechanism for the payment of Distributions;
- 8.3.2 For the sake of clarity, it is recorded that, notwithstanding the above, the assessment of the achievement of Substantial Implementation of this Business Rescue Plan will remain within the sole and absolute, but reasonable, discretion of the BRPs.
- 8.4 Projected Balance Sheet and Projected Income Statement (Section 150 (2) (c) (iv)):
- 8.4.1 The Investors projected balance sheet and income statement for the ensuing three years are included in Annexure G.
- 8.4.2 In compliance with section 150(3)(a), the Investors projected balance sheet and statement of income and expenses at Annexure G were modelled on the assumptions set out in that annexure.
- 8.4.3 The Business Rescue Plan does not include alternative projections based on varying assumptions and contingencies.

CHAPTER 3 – GENERAL

9 PRESERVATION OF CLAIMS AGAINST OTHERS

- 9.1 The liability of directors and/or prescribed officers for the Company's debts, under section 218 of the Companies Act, as read with sections 77(3)(b) and 22 of the Companies Act, is not affected by this Business Rescue Plan.
- 9.2 The liability of the Company's sureties for the Company's debts is not affected by this Business Rescue Plan

10 EXISTING LITIGATION

- 10.1 Annexure I list the matters already subject to a dispute resolution process as at the Publication Date.
- 10.2 All parties who have instituted legal proceedings, including any enforcement action, in respect of any Claims against the Company in any forum will be required to submit a Claim for consideration by the BRPs in accordance with the provisions of this Business Rescue Plan.

11 DISPUTE RESOLUTION MECHANISM

- 11.1 In order to resolve Disputed Claims in an expedited manner and at minimum cost to all parties concerned, an accelerated and optimised Dispute Resolution Mechanism will be followed.
- 11.2 Save as provided for in Section 133 of the Companies Act (and without in any way impacting or depriving the rights of the BRPs), all Disputed Claims that are not already subject to court proceedings and/or a formal dispute resolution process (to which the BRPs have agreed to or in respect of which the courts have granted leave) as at the Publication Date must be resolved in accordance with this Dispute Resolution Mechanism.
- 11.3 The Dispute Mechanism procedure will be as follows –
- 11.3.1 Following the process set out in 6.9.2, all Disputed Creditors are to contact the BRPs (at creditorclaims@comair.co.za), within 30 days of the Rejection Date, and attempt to reach agreement with the BRPs on

the Disputed Claim within the ensuing 15 days or such longer period as the BRPs may require. If the Disputed Creditor does not avail itself of this opportunity within the time period allowed, then the Disputed Creditor shall be deemed to have abandoned its Claim and will not, in terms with section 154 of the Companies Act, be entitled to enforce, at a later date, any Claim that, that creditor believes it has against the Company;

- 11.3.2 If the dispute is not resolved, the Disputed Creditor will be afforded 7 days (reckoned from the date of expiry of the 15 days or longer period contemplate in paragraph 11.3.1) to request the chairman of the Arbitration Foundation of South Africa ("**AFSA**") or its successor in title, to nominate an arbitrator to preside over the dispute. Should the Disputed Creditor not refer the matter to AFSA for the appointment of an arbitrator, within the period allowed then the Disputed Creditor shall be deemed to have abandoned its Claim and will not thereafter be entitled to make such a nomination at a later date and will accordingly not, in terms with section 154 of the Companies Act, be able to enforce any Claim that, that creditor believes is owed to it by the Company;
- 11.3.3 The arbitrator when nominated and who agrees to accept such appointment will reasonably endeavour to complete his mandate within 30 days of his appointment or within such reasonable further time period as the arbitrator may determine.
- 11.3.4 To the extent that the arbitrator as nominated refuses to act or is not available to act, the Disputed Creditor must within 7 days of receiving notice of the arbitrator's refusal or unavailability, request AFSA to appoint an alternate arbitrator until one such arbitrator is available, and is agreeable, to act. Should the Disputed Creditor request AFSA to appoint an alternate arbitrator, within the period allowed, then the Disputed Creditor shall be deemed to have abandoned its Claim and will not, in terms with section 154 of the Companies Act, be able to enforce any Claim that, that creditor believes is owed to it by the Company;
- 11.3.5 The arbitrator will in his sole and absolute discretion determine –
- 11.3.5.1 the venue at which the dispute is to be resolved;
- 11.3.5.2 the rules, regulations and procedures that will govern the determination of the dispute;
- 11.3.5.3 the date/s for the determination of the dispute;

- 11.3.5.4 will give his award/determination within 2 weeks of the completion of the process as determined by him;
- 11.3.5.5 will as part of his award/determination determine who is liable for the costs of the determination, such costs to include his costs, legal costs, venue costs, recording equipment (if applicable), transcript of evidence (if applicable) and the like.
- 11.3.6 Save for any manifest error, the determination of the arbitrator will be final and binding and will not be subject to any review or appeal process;
- 11.3.7 All parties agree to use their utmost endeavours to ensure that the entire dispute is determined by the arbitrator within the 30-day period as set out above.
- 11.3.8 Should any monetary award be made against the Company, including a costs award, then that award will be treated as a Concurrent Claim in the Business Rescue Proceedings.
- 11.3.9 The BRPs may in their sole and absolute discretion decide that –
- 11.3.9.1 certain disputes may be settled or compromised; and/or
- 11.3.9.2 the Dispute Mechanism is not appropriate for resolving the dispute and/or that the application of the Dispute Mechanism may result in prejudice to Affected Persons or the Company.
- 11.3.10 In the event of 11.3.9.2, within 10 days of the BRPs notifying the Disputed Creditor of the exercise of the BRPs' discretion, the Disputed Creditor shall be entitled, in accordance with section 133 of the Companies Act and without any prejudice to the BRPs rights, to apply to the High Court for its consent to institute proceedings against the Company, and if an arbitrator has already been nominated, such nomination shall lapse and be of no further force or effect. If the Disputed Creditor does not avail itself of this opportunity within the time allowed, the Disputed Creditor shall be deemed to have abandoned its Claim and will not, in terms with section 154 of the Companies Act, be entitled at a later date to refer the dispute to the High Court in order to enforce any Claim that, that creditor believes is owed by the Company.

- 12.1 The BRPs choose domicilium citandi et executandi ("**Domicilium**") for all purposes relating to the Business Rescue Proceedings up until the Substantial Implementation Date, including the giving of any notice and the serving of any process, at the physical and e-mail addresses set out below:
- Physical: 33 Bell Crescent,
Westlake Business Park,
Westlake,
7945,
Tokai,
Cape Town,
Western Cape
- E-mail: shaun.collyer@asocapital.com / richardf@redfordcapital.co.za
- Attention: Shaun Collyer and Richard Ferguson
- 12.2 The BRPs shall be entitled up until the Substantial Implementation Date, by giving written notice to Affected Persons, to vary their physical Domicilium to any other physical address (not being a post office box or poste restante) and to vary their e-mail Domicilium to any other e-mail address.
- 12.3 Any notice given or process served by any Affected Person to the BRPs, which is delivered by hand between the hours of 09:00 and 17:00 on any Business Day to the BRPs physical Domicilium for the time being, shall be deemed (unless the contrary is proved by the BRPs) to have been received by the BRPs at the time of delivery.
- 12.4 Any notice given or process served by any Affected Person to the BRPs, which is transmitted by e-mail to the BRPs' e-mail Domicilium for the time being, shall be deemed (unless the contrary is proved by the BRPs) to have been received by the BRPs on the Business Day immediately succeeding the date of successful transmission thereof.
- 12.5 This paragraph 12 shall not operate so as to invalidate the giving, serving or receipt of any written notice or process which is actually received by the BRPs other than by a method referred to above.
- 12.6 Any notice or process in terms of, or in connection with, this Business Rescue Plan shall be valid and effective only if in writing and if received or deemed to have been received by the BRPs.
- 12.7 For the avoidance of doubt, it is recorded that -
- 12.7.1 as at the Substantial Implementation Date, the Business Rescue Proceedings of the Company would have terminated; and

- 12.7.2 no notice or process served in terms of this clause shall be taken into consideration by the BRPs (unless they in their sole discretion choose to consider such notice or process) on or after the Substantial Implementation Date.

13 ABILITY TO AMEND THE BUSINESS RESCUE PLAN

- 13.1 For purposes of this paragraph 13, a materially prejudicial outcome is an outcome that results in Distributions to Creditors that would be less than the estimated liquidation dividend to as calculated by PWC and set out in Table 1.
- 13.2 The BRPs shall have the ability, in their sole and absolute discretion, to amend, modify or vary any provision of this Business Rescue Plan, provided that (i) any amendment will not be materially prejudicial to any of the Affected Persons; (ii) at all times the BRPs act reasonably, and (iii) with the knowledge and consent of the Investors, which shall not be unreasonably withheld or delayed by the Investors.
- 13.3 Any amendment will be deemed to take effect 24 hours after the date of written notice of the amendment to all Affected Persons.
- 13.4 It is specifically recorded that the provisions of this section shall, *mutatis-mutandis*, apply to the extension or reduction of any timeframes by the BRPs.
- 13.5 If the Business Rescue Plan requires amendment and the amendment is materially prejudicial to certain creditors but not to others, then the approval of that amendment will be procured in writing from those that have been so prejudiced. In this instance, the process to amend the Business Rescue Plan would be as follows:
- 13.5.1 If possible, obtain the consent from the prejudiced parties without the need for a formal meeting;
- 13.5.2 Once obtained, a notice of amendment to be distributed to all affected persons; and
- 13.5.3 The amended Business Rescue Plan will be placed on the website of the Company.
- 13.6 All amendments (other than as provided for in this paragraph of the Business Rescue Plan) to the Business Rescue Plan which require further approvals will be subject to the same voting threshold as required for Adoption of the Business Rescue Plan.

14 SEVERABILITY

- 14.1 Each provision of this Business Rescue Plan is, notwithstanding the grammatical relationship between that provision and the other provisions of this Business Rescue Plan, severable from the other provisions of this Business Rescue Plan.
- 14.2 Any provision of this Business Rescue Plan which is or becomes invalid, unenforceable or unlawful in any jurisdiction shall, in such jurisdiction only, be treated as *pro non scripto* to the extent that it is so invalid, unenforceable or unlawful, without invalidating or affecting the remaining provisions of this Business Rescue Plan which shall remain of full force and effect.
- 14.3 The BRPs declare that it is their intention that this Business Rescue Plan would be executed without such invalid, unenforceable or unlawful provision if he were aware of such invalidity, unenforceability or unlawfulness at the time of execution of this Business Rescue Plan.

15 DISCLAIMER

- 15.1 The BRPs in the preparation of this Business Rescue Plan have relied on information obtained from the books and records of the Company, meetings held with the Company's directors, Management, Affected Persons, Advisors and other service providers of the Company, and studies and reports commissioned from various technical and other professional advisors in connection with the affairs of the Company.
- 15.2 In terms of the Listings Requirements of the JSE:
- 15.2.1 The Company has prepared the unaudited and un-reviewed management accounts for the 10 months ended 30 April 2020 and for the 12 months ended 30 June 2020 ("**Financial Reports**") in accordance with International Financial Reporting Standards. To the best of the BRPs knowledge, the accounting policies used in the preparation of the Financial Information is consistent in all material respects with those applied in the previous annual financial statements.
- 15.2.2 The BRPs have relied on information obtained from the books and records of the Company, and in particular the Company's April 2020 and June 2020 management accounts as prepared by the Company's financial team.

- 15.2.3 The Investors have prepared a profit forecast for the three financial years ending 30 June 2021, 2022 & 2023 ("**Financial Forecasts**") which have been prepared on a market value basis and are not in accordance with International Financial Reporting Standards;
- 15.2.4 The Financial Reports and Financial Forecasts have not been audited or reviewed by the Group's auditors, BDO South Africa Inc.
- 15.3 Whilst the BRPs and their Corporate Finance Advisors have made reasonable efforts to ensure the accuracy of this Financial Information, it should be noted that the BRPs' investigations have been limited in nature due to:
- 15.3.1 time constraints placed on practitioners by the Companies Act;
- 15.3.2 pressure from Affected Persons to effect a reasonably paced rescue;
- 15.3.3 fluidity of the Covid-19 pandemic and the South African Government's travel restrictions in response thereto;
- 15.3.4 limited financial resources available to the Company (and therefore the BRPs); and
- 15.3.5 the quality of certain of the records and affairs of the Companies.
- 15.4 The BRPs have not carried out an audit of the Companies' books and records, nor have they had adequate opportunity to independently verify all information provided to them by the Company and/or relevant third parties.
- 15.5 The BRPs do not undertake any responsibility in any way whatsoever to any person in respect of any errors in these presentations arising from incorrect information that may have been provided to them. Neither the BRPs and their Corporate Finance Advisors nor any person engaged to assist in the Business Rescue Proceedings 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.

CHAPTER 4 – CONCLUSION AND BRP'S CERTIFICATE

16 CONCLUSION

16.1 For the reasons set out above:


16.1.1 it is the view of the BRPs that, notwithstanding the inevitable risks and challenges, and the fulfilment or waiver of Suspensive Conditions, there is a reasonable prospect that the Company can be rescued within the meaning of the Companies Act, and that this Business Rescue Plan balances the rights and interests of all relevant stakeholders of the Company;

16.1.2 The Distribution will result in Concurrent Creditors receiving an estimated Distribution of 1 to 2 cents in the Rand as opposed to the estimated liquidation dividend of 0 cents; and

Should the Business Rescue Plan not be Adopted, the BRPs will consider the continued reasonable prospects of rescue and will further consider the conversion of the business rescue proceedings to that of liquidation in terms of section 141(2)(ii).

17 BRPS' CERTIFICATE

- 17.1 We, the undersigned, hereby confirm that the information contained herein is based on information provided to us by the management and the Board of Directors of the Company and other related stakeholders (such as Creditors, Lenders, Employees, Shareholders) and relevant parties, and upon which we have relied.
- 17.2 While every reasonable effort has been made to ensure the accuracy of information contained herein, we can give no warranty in this regard save to confirm, to the best of our knowledge and belief that:
- 17.2.1 any information provided herein appears to be reasonably accurate, complete and up to date;
- 17.2.2 we have relied on financial information including opinions and reports furnished to us by the Board of Directors, Management and the Company's auditors;
- 17.2.3 any Investor Projections provided are estimates made in good faith and based on factual information and assumptions as set out herein; and
- 17.2.4 in preparing the Business Rescue Plan, we have not undertaken an audit of the information provided to us, although where practical, we have endeavoured to satisfy ourselves of the accuracy of such information.



Shaun Collyer
Date: 2 September 2020



Richard Alexander Ferguson
Date: 2 September 2020

ANNEXURES

Annexure A: DETAILED COMPANY STRUCTURE

Annexure B: LIST OF CREDITORS CLAIMS AND VOTING INTERESTS

Annexure C: LIST OF HOLDERS OF THE COMPANY'S SECURITIES

Annexure D: LIQUIDATION SCENARIO

Annexure E: MATERIAL ASSETS OF THE COMPANY AT 30 JUNE 2020

Annexure F: MANAGEMENT ACCOUNTS OF THE COMPANY AS AT 30 APRIL 2020
AND 30 JUNE 2020

Annexure G: INVESTORS' PROJECTIONS AND MATERIAL ASSUMPTIONS

Annexure H: SCHEDULE OF POST COMMENCEMENT FINANCE PROVIDED TO DATE

Annexure I: LIST OF DISPUTE RESOLUTION PROCESSES, LITIGATION AND
ARBITRATION

Annexure J: BRPS' REMUNERATION AGREEMENT

Annexure K: EMPLOYEE WAIVER AGREEMENT IN RESPECT OF PCF CLAIMS

Annexure L: PROXY FORM FOR CREDITORS

Annexure M: ACTION REQUIRED BY SHAREHOLDERS

Annexure N: NOTICE OF MEETINGS OF SHAREHOLDERS

Annexure O: PROXY FORM FOR SHAREHOLDERS

Annexure P: ELECTRONIC PARTICIPATION APPLICATION FORM

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AND 30 JUNE 2020

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Annexure G: PROJECTIONS AND MATERIAL ASSUMPTIONS

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**Annexure H: POST-COMMENCEMENT FINANCE PROVIDED SINCE COMMENCEMENT
OF BUSINESS RESCUE**

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ARBITRATION**

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Annexure P: **ELECTRONIC PARTICIPATION APPLICATION**

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[***END****]**

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