

PROPOSED BUSINESS RESCUE PLAN

Prepared and published to all the affected persons in terms of section 150 of the Companies
Act No.71 of 2008 (as amended)

GENESIS CAPITAL (PROPRIETARY) LIMITED

(IN BUSINESS RESCUE)

REGISTRATION NUMBER 2004/011159/07

Prepared by:

FENWICK NEIL MILLER and BYRON NORMAN CHEVALIER

In their capacities as the joint Business Rescue Practitioners



M A Z A R S

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INDEX	PAGE
1. Definitions	1 – 6
2. Qualifications to the Business Rescue Plan	6 – 8
3. Assumption of control by the Business Rescue Practitioners	8 – 9
4. First meeting of Creditors and Business Rescue process to date	9
5. Trading during Business Rescue	10
6. Business Plan: Part A –Background	10 – 26
7. Business Plan: Part B – Proposals	27 – 34
8. Effect on Shareholders	34
9. The Benefits of Adopting the Business Rescue Plan as Opposed to Liquidation Scenario	34 – 35
10. The Risks of Adopting the Business Rescue Plan	35 - 36
11. Proposed Business Rescue Plan: Part C – Assumptions and Conditions	36 – 38
12. General Provisions	38
13. Conclusions	39
14. Certificate by the Practitioners	40

ANNEXURES	
Annexure A – list of material assets and security given	
Annexure B – Calculus Proposal	
Annexure C – list of shareholders	
Annexure D – list of creditors	
Annexure E – probable liquidation dividend	
Annexure F – business rescue calculation	
Annexure G – cash flow forecast for remainder of business rescue proceedings	

EXECUTIVE SUMMARY

1. Disclosure:

This statement is provided only to assist the reader to understand the proposed Business Rescue Plan. Although the Business Rescue Practitioners has used the same terminology and definitions as contained in the Business Rescue Plan (and the capitalised terms used in what follows are to be read as bearing the meanings assigned to them in paragraph 1 below), this statement does not form part of the proposed Business Rescue Plan. Affected Persons are advised to read the proposed Business Rescue Plan carefully and to seek independent legal/other professional advice in order to consider its content and the proposal as presented.

2. Status of the Company when business rescue commenced:

At the Commencement Date the directors of the Company concluded that the Company was financially distressed in that it appeared to be reasonably unlikely that the Company would be able to pay all of its debts as they become due in the ensuing six months. This assessment was primarily linked to the decrease in income earned from dividends and management fees earned from subsidiary entities as well as a reduction in the value of the Company's underlying investments.

3. Business Rescue Process:

3.1. Business Rescue Proceedings have allowed sufficient time for the Practitioners to assess the viability of the Proceedings when compared to liquidation. This Business Rescue Plan envisages sale of the Company's Assets with the result that the estimated distribution to Creditors will be better than it will have been on the immediate liquidation of the Company.

3.2. In addition to this assessment, the Business Rescue Practitioners have, since the Commencement Date, extensively consulted the Company's Management, Calculus and certain Affected Persons.

3.3. As we explain below, the Company is currently not trading in the ordinary course. Inasmuch as it has any business, its business is that of an investment holding entity.

3.4. This Business Rescue Plan was prepared after engagement and consultation with Affected Persons.

3.5. Practitioners have developed this Business Rescue Plan in terms whereof the Company will sell the Assets by way of the Realisation of Assets, alternatively the Wind-Down Scenario, and, thereafter, pay to Creditors the Distribution.

4. Summary of the proposal to Creditors:

The proposed Plan is as set out below.

4.1. First Part – Realisation of Assets

4.1.1. The First Part of the Proposal is the Realisation of Assets.

4.1.2. Due to timing and liquidity constraints facing the Company at the beginning of the Proceedings, the Practitioners embark upon the process of the Realisation of Assets in conjunction with a parallel process of having the Calculus Shares, being the largest asset, independently valued by BDO.

4.1.3. The Realisation of Assets is as follows:

4.1.3.1. Calculus Shares:

4.1.3.1.1. As recorded above, at the Commencement Date, the Company held the Calculus Shares, which shares were subject to the Pledge;

4.1.3.1.2. Calculus exercised its rights in terms of the Pledge in the amount of R40 381 753, leaving the Remaining Calculus Shares subject to the Pledge;

4.1.3.1.3. In terms of the Calculus Proposal, and upon fulfilment of the conditions precedent set out in paragraph 4.1.3.2 below, an amount of R20 000 000 (twenty million Rand) will be immediately available for distribution to as provided in in the waterfall of payment in paragraph 7.5.4 of the Plan; and

4.1.3.1.4. In addition to the R20 000 000 aforesaid, and in the event that some or all of certain confidential liabilities identified by Calculus do not materialise between the Adoption Date and 30 June 2023, an Agterskot up to a maximum as reflected in Annexure B hereto will be payable by Calculus to the Company and available for distribution;

4.1.3.2. The Calculus Proposal is subject to the fulfilment of the following conditions precedent by no later than 30 September 2020:

4.1.3.2.1. the conclusion of a written and binding agreement between the Company and Calculus governing the Calculus Proposal and such agreement becoming unconditional in accordance with its terms; and

4.1.3.2.2. the adoption of this Business Rescue Plan.

4.1.3.3. Alefbet Shares:

4.1.3.3.1. Receipt of the Alefbet Payments in terms of the Alefbet Sale Agreement.

4.1.3.4. The Sale Process:

4.1.3.4.1. The sale of the Assets excluding the Calculus Proposal and the Alefbet Shares.

4.2. Second Part – Wind-Down Scenario

4.2.1. In the event that the First Part of the Proposal set out above fails, the Practitioners will pursue the wind-down process, which will be implemented after the date on which the Realisation of Assets fails or such earlier date as the Practitioners may, in their sole discretion, determine.

4.2.2. The wind-down process entails the following:

4.2.2.1. the realisation of all the then remaining Assets by way of private treaty, public auction or any other manner which the Practitioners deem appropriate in the circumstances prevailing at that time and over a period to be determined by the Practitioners in their sole discretion; and

4.2.2.2. the recovery of any and all amounts due but not yet received by the Company in respect of the historical sale/s of any Assets (which may, in the Practitioners' sole and absolute discretion, include compromising any claims owing to the Company in order to receive payment sooner than the debtor is obliged to settle its indebtedness to the Company).

5. The impact of this Business Rescue Plan on the shareholders of the Company:

This Business Rescue Plan has no effect on the rights of the shareholders.

6. Substantial Implementation

6.1. Substantial Implementation will take place, subject to the below conditions having been met to the satisfaction, and in the sole discretion, of the Practitioners, on the 7th (seventh) Business Day after:

- 6.1.1. The receipt of the Proceeds or, in the event of the failure of Part One of the Proposal, the Part Two Wind-Down Scenario and the disposal of the business and/or shares and/or Assets having been realised and the proceeds received by the Practitioners;
 - 6.1.2. The Practitioners have adjudicated all Claims and paid all costs associated with these Proceedings;
 - 6.1.3. Payment of all costs associated with the Proceedings; and
 - 6.1.4. Payment by the Practitioners of all funds available for distribution to Creditors as provided for in this Plan.
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1. DEFINITIONS AND ABBREVIATIONS

- 1.1. **“Adoption Date”** means the date upon which the Business Rescue Plan is approved as provided in sections 152(2) and (3) of the Act;
- 1.2. **“Advisors”** means the advisors to the BRP, being Mazars and its respective employees or representatives as well as Knowles Husain Lindsay Inc;
- 1.3. **“Affected Person/s”** means affected persons of the Company as defined in section 128(1) of the Act – and, in relation to the Company, means a shareholder, Creditor and employees of the Company (if any), together with any registered trade union (if any);
- 1.4. **“Agterskot”** means the an amount up to R13 514 426, as calculated in Annexure B hereto, payable by Calculus to the Company on 30 June 2023 thereafter to be made available for distribution to Creditors as set out in this Plan;
- 1.5. **“Alefbet”** means Alefbet Holdings (Pty) Limited a private company incorporated within the laws of South Africa under registration number 2017/528411/07;
- 1.6. **“Alefbet Sale Agreement”** means the written and signed sale of shares agreement concluded between Alefbet and the Company on or about 25 May 2020;
- 1.7. **“the Alefbet Payments”** means the maximum amounts recoverable in terms of the remaining tranche payments which fall due to be paid to the Company by Alefbet on 28 February 2021 and 28 February 2022 subject to the terms of the Alefbet Sale Agreement;
- 1.8. **“Alefbet Shares”** means the shares held by the Company in Alefbet at the Commencement Date and the subsequent sale thereof by the Company in terms of the Alefbet Sale Agreement;
- 1.9. **“Assets”** means collectively the material assets listed in **Annexure A** hereto and the security given in respect thereof;
- 1.10. **“Business Day”** means any day other than a Saturday, Sunday or recognised public holiday in the Republic of South Africa;

- 1.11. **“Business Rescue Practitioners” or “Practitioners”** means Miller and Chevalier, the jointly appointed business rescue Practitioners appointed in terms of section 129(3)(b) of the Companies Act;
- 1.12. **“Business Rescue Plan” or “the Plan”** means this document together with the annexures hereto, as amended from time to time, which has been prepared in terms of section 150 of the Act and is effective from the Commencement Date;
- 1.13. **“Calculus”** means Calculus Capital (Pty) Limited, a private company duly incorporated in terms of the laws of South Africa under registration number 2004/029329/07;
- 1.14. **“Calculus Proposal”** means the written proposal from Calculus to the Company as recorded in **Annexure B** hereto;
- 1.15. **“Calculus Shares”** means the shares held by the Company in Calculus, being 279 236 ordinary shares, which shares are held by Calculus as security in terms of the Pledge;
- 1.16. **“Claims”** means Pre-Commencement Claims and Post-Commencement Claims;
- 1.17. **“Chevalier”** means Byron Norman Chevalier, a licensed business rescue Practitioners, Physical Address: Mazars House, Rialto Road, Grand Moorings Precinct, Century City, 7441, Cape Town, telephone: (021) 818 5153, email address: byron.chevalier@mazars.co.za;
- 1.18. **“Commencement Date”** means 8 May 2020, being the date upon which the Proceedings commenced in accordance with section 129(1) of the Companies Act;
- 1.19. **“the Company”** means Genesis Capital (Pty) Limited (in business rescue) a private company duly incorporated in terms of the laws of South Africa under registration number 2004/011159/07 with its registered address at 27 Fricker Road, Sandton, Johannesburg;
- 1.20. **“the Companies Act” or “Act”** means the Companies Act 71 of 2008, as amended, together with the regulations promulgated thereunder;
- 1.21. **“Companies Commission” or “CIPC”** means the Company and Intellectual Property Commission;

- 1.22. **“Concurrent Creditors”** means Creditors who do not hold security for their Claims and/or are not statutorily preferred as provided for in section 135 of the Companies Act;
- 1.23. **“Contingent Creditors”** means potential Creditors whose claims are contingent upon future events, and are therefore not entitled to vote in respect of the Business Rescue Plan;
- 1.24. **“Creditors”** means all natural and legal persons to whom monies are owed by the Company by virtue of Pre-Commencement Claims and/or Post-Commencement Claims, and whose Claims have been accepted by the Practitioners (or if rejected, have subsequently succeeded in proving their claims against the Company in accordance with the provisions of paragraph 6.14 below and are therefore not Disputed Creditors);
- 1.25. **“Creditors’ Committee”** means the committee formed in terms of section 145(3) of the Companies Act;
- 1.26. **“Days”** means calendar days (unless indicated to the contrary);
- 1.27. **“Disputed Claims”** means any and all Claims or any part thereof which are disputed in this Business Rescue Plan and which dispute shall be determined as provided for in the Dispute Resolution Process set out in paragraph 6.14 below;
- 1.28. **“Distribution/s”** means the total distributions to be made by the Practitioners to Creditors with accepted Claims, from time to time and as provided for in this Business Rescue Plan;
- 1.29. **“Final Claims Date”** means the final date for the filing of Pre-Commencement Claims, being 90 days from the Adoption Date;
- 1.30. **“Insolvency Act”** means the Insolvency Act 24 of 1936 (as amended);
- 1.31. **“Management”** means the duly appointed and active directors and/or senior management of the Company as at the Commencement Date;
- 1.32. **“Meeting/s”** means the meetings in respect of the Company convened in terms of section 151(1) of the Act and as may be postponed from time to time;

- 1.33. **“Miller”** means Fenwick Neil Miller, a licensed business rescue Practitioners, Physical Address: Mazars House, Rialto Road, Grand Moorings Precinct, Century City, 7441, Cape Town, telephone: (021) 818 5074, email address: neil.miller@mazars.co.za;
- 1.34. **“Mazars”** means Mazars Recovery and Restructuring (Pty) Limited a private company incorporated in terms of the laws of South Africa and situated at Rialto Road, Grand Moorings Precinct, Century City, Cape Town;
- 1.35. **“PCF”** means post commencement finance as provided or to be provided to the Company in terms of section 135 of the Act;
- 1.36. **“PCF Creditors”** means those Creditors who have provided PCF, or will provide PCF at some future date, during the Proceedings, including PCF Employees;
- 1.37. **“PCF Employees”** means all employees in the employ of the Company after the Commencement Date, to the extent that any remuneration, reimbursement for expenses or other amount of money relating to employment is due and payable by the Company to such employees but is not paid to them;
- 1.38. **“the Pledge”** means the written pledge and cession agreement concluded between Calculus and the Company on 26 September 2019 in terms whereof the Company pledged to Calculus all of its shares in Calculus as security for the secured obligations (as defined);
- 1.39. **“Post Commencement Claims”** means any claim against the Company, the cause of which arose after the Commencement Date;
- 1.40. **“Post-Commencement Creditors”** means any Creditor having Post Commencement Claims;
- 1.41. **“Pre-Commencement Claim”** means the claim against the Company the cause of action which arose prior to the Commencement Date;
- 1.42. **“Pre-Commencement Creditors”** means any Creditor having Pre-Commencement Claims;
- 1.43. **“Pre-Commencement Secured Creditors”** means all Pre-Commencement Creditors holding security for their Claims;

- 1.44. **“Preferent Claims”** means Claims determined, calculated and admitted as having a preference as envisaged in the Companies Act;
- 1.45. **“Preferent Creditors”** means Creditors having Preferent Claims;
- 1.46. **“the Proceeds”** means the total estimated amount of R119 000 203 (one hundred and nineteen million two hundred and three Rand) to be received by the Practitioners through the Realisation of Assets;
- 1.47. **“Proceedings”** means the Company’s business rescue proceedings as contemplated in Chapter 6 of the Companies Act;
- 1.48. **“Proposal”** means the proposal to rescue the Company as set out in Part B of the Business Rescue Plan;
- 1.49. **“Publication Date”** means 21 August 2020, the date on which this Business Rescue Plan is published;
- 1.50. **“Rand”** or **“R”** means the lawful currency of South Africa;
- 1.51. **“Realisation of Assets”** means, in totality, the process of realising the Assets which includes the implementation of the Calculus Proposal, the receipt of the Agterskot (if any), the receipt of the Alefbet Payments (if any) and any amounts payable to the Company by any purchaser on the realisation of such remaining Assets in the Company;
- 1.52. **“Remaining Calculus Shares”** means 78 417 ordinary shares currently held by the Company in Calculus, constituting 5.69% of the total issued share capital of Calculus and which shares remain subject to the Pledge;
- 1.53. **“Sale Process”** means the sale and/or realisation and/or receipt of any deferred payment process to be embarked upon by the Practitioners in order to realise the remaining Assets but excluding the Alefbet Payments and the Calculus Proposal;
- 1.54. **“SARS”** means the South African Revenue Services;
- 1.55. **“SARS Claims”** means all Claims for tax (in the broadest possible sense in which such term is utilised) of whatsoever nature and howsoever arising and includes levies, penalties and interest of whatsoever nature, whether assessed or not and

upon which the returns for such tax have been or are still to be submitted by the Company to SARS;

- 1.56. **“Secured Claims”** means those Claims against the Company which are validly secured by any one or more of the assets of the Company;
- 1.57. **“Secured Creditors”** means Creditors having Secured Claims;
- 1.58. **“Shareholders”** means those holding a beneficial interest in the Company per the Company records as at the Commencement Date;
- 1.59. **“Substantial Implementation Date”** means the date upon which the Practitioners file with the CIPC a notice that all the events contemplated in paragraph 10.5 have occurred and the date upon which the Proceedings will terminate as contemplated in section 132(2)(c)(ii) of the Companies Act;
- 1.60. **“VAT”** means valued-added tax as contemplated in the Valued Added Tax Act 89 of 1991, as amended from time to time.

2. **QUALIFICATIONS TO THIS BUSINESS RESCUE PLAN**

- 2.1. This Business Rescue Plan is published in compliance with the provisions of the Act¹. It is provided solely for the information of Affected Persons.
- 2.2. This Business Rescue Plan is confidential and prepared solely for the purpose(s) set out in the Act. No person may refer to or use the names of the Practitioners or the Business Rescue Plan for any other purpose, disclose or refer to them in any prospectus or other document, or make them available or communicate them to any other party. Save for Affected Persons, no other party is entitled to rely on this Business Rescue Plan for any purpose whatsoever and the Practitioners accepts no duty of care or liability to any other party who is shown or gains access to this Business Rescue Plan.
- 2.3. Affected Persons are advised to seek independent legal and/or financial and/or other professional advice in order to consider the Business Rescue Plan as presented.

¹ Section 150 of the Act

- 2.4. This Business Rescue Plan is based upon information provided to the Practitioners from the commencement of Proceedings by the Company, its management, Affected Persons and third parties.
- 2.5. In compiling this Business Rescue Plan the Practitioners has accepted and relied on this information, representations and the authenticity of documents provided to them. Should it become necessary to make representations and documents referred to herein admissible for court purposes, the authors of the representations and documents would have to confirm these in the relevant court processes should it become necessary.
- 2.6. Since their appointment, the Practitioners has to the best of their ability in the circumstances described below and pursuant to their statutory obligations, undertaken investigations into the affairs of the Company². Their investigations have been curtailed due to the time constraints placed on them by the Companies Act as well as financial constraints.
- 2.7. The statements and opinions expressed in this Business Rescue Plan are given in good faith and in the belief that such statements and opinions are not false or misleading. Should any new information become available between the date of this Business Rescue Plan and the date of any subsequent meetings or reports, the Practitioners reserve their rights to alter any conclusions reached on the basis of that new information.
- 2.8. In preparing this Business Rescue Plan and in formulating the proposals it contains, the Practitioners has made the necessary forecasts and estimates with respect to the realisation of the Assets as well as the total value of Claims of Creditors received. These forecasts and estimates may change as the Proceedings progress and Creditors continue, within the time allowed, to prove additional Claims against the Company.
- 2.9. **Whilst this Business Rescue Plan estimates the likely outcomes for Affected Persons, the forecasts contained herein are by their very nature uncertain and**

² Section 141 of the Act

the ultimate outcomes may differ from the outcomes forecast in the Business Rescue Plan.

- 2.10. The Practitioners reserve the right to amend this Business Rescue Plan should it come to their attention that material information has been withheld, or if additional information is brought to their attention.
- 2.11. For your convenience, this document may have been made available to you in electronic as well as hard copy format. Multiple copies and versions of this document may, therefore, exist in different media. Only the final hard copy should be regarded as definitive.

3. ASSUMPTION OF CONTROL BY THE PRACTITIONERS

- 3.1. Upon their appointment, the Practitioners assumed management control of the Company in conjunction with the Company's existing management. The Practitioners, with management, assessed the financial position of the Company, reviewed its financial documentation (to the extent available) as well as the asset position. They also assessed the Company's immediate cash requirements, in light of limited day-to-day operations, and its ongoing viability.
- 3.2. The Company's operations continued post the Commencement Date on a limited basis with its primary source of revenue arising from the sale of the Alefbet Shares. Until the termination of the lease agreement, the Company operated from its head office situated at 27 Fricker Road, Illovo, Johannesburg.
- 3.3. In terms of section 140(1) of the Act, the Practitioners can delegate any power or function to a person who is part of the Company's board and who was part of the pre-existing management of the Company. Taking into account the specialised nature of the Company's operations, the Practitioners delegated certain identified day-to-day operational powers to Management. Where required, the Practitioners have sought Management's insight and knowledge in assessing the current status and financial position of the Company.

3.4. The Practitioners are of the view that the Assets, being the material assets of the Company, have – to the fullest extent permitted by the funds available to the Practitioners at the various stages of the Proceedings – been identified, well maintained and secured so as to preserve value for the benefit of Affected Persons.

4. **FIRST MEETING OF CREDITORS³, EMPLOYEES⁵ AND BUSINESS RESCUE PROCESS TO DATE**

4.1. The Practitioners convened and presided over the first meeting of Creditors on 22 May 2020.

4.2. At the meeting the Practitioners informed Creditors of the background to the Company and the reasons for the challenges experienced leading to the Proceedings in respect of the Company. They also confirmed that there was a reasonable prospect of rescuing the Company and discussed how they envisaged this being achieved.

4.3. At the meeting Creditors elected to form a Creditors' Committee. The Practitioners extended an invitation to the Creditors' Committee to engage with them regarding the Proceedings and progress in regard thereto. The Creditors' Committee did not accept the invitation.

4.4. The Practitioners convened and presided over the first meeting of employees on 22 May 2020.

4.5. At the meeting employees elected not to form an employees' committee.

4.6. As of 15 May 2020, all staff were retrenched in terms of the process commenced prior to the Commencement Date and as contemplated in terms of section 189 of the Labour Relations Act 66 of 1995. Key identified staff and independent contractors were retained post the Commencement Date for the purposes of assisting the Practitioners.

³ Section 147 of the Act

5. **TRADING DURING BUSINESS RESCUE**

- 5.1. Save to the extent necessary to safeguard the Assets, the Company has not traded post the Commencement Date.
- 5.2. As such, once Substantial Implementation is achieved and the Practitioners have received all the Proceeds and paid the Distribution/s, the Company will return to solvency but have no business operations or staff.

6. **BUSINESS RESCUE PLAN: PART A – BACKGROUND**

- 6.1. In compliance with the Act, the Business Rescue Plan contains certain background information. This is recorded below.

6.2. Company formation

- 6.2.1. The Company was incorporated in 2004 to hold and operate as an investment holding entity.
- 6.2.2. After a 2006 restructure, the Company assumed the role of the holding company within the group structure and was responsible for management and resource allocation to entities within the group over and above its investment holdings.

6.3. Shareholder Structure

As at the Commencement Date, the Company had an authorised share capital of 1 000 000 ordinary par value shares with 240 154 issued shares.

6.4. Shareholders

As at the Commencement Date, the Company's Shareholders are as reflected in **Annexure C** hereto.

6.5. Company Information at the Commencement Date

Financial Year	31 March
Registered Business Address	27 Fricker Road, Sandton, 2196, Johannesburg
Postal Address	27 Fricker Road, Sandton, 2196, Johannesburg

Business Telephone Number	011-731 5000
Business Fax Number	011-731 5171
Accountants/Auditors	Thort Chartered Accountants

6.6. Directors at the Commencement Date

Stanley Norman Melnick	Active – appointment date 2 August 2006
Amanda Turi Jones	Active – appointment date 12 November 2008

6.7. Company Background

6.7.1. In 1998 Genesis Risk and Investment (Pty) Limited (“**GRI**”), then named Genesis Capital with registration number 1998/024566/07, bought the business of Levick Finance Group, which group was started and then managed by Mr Selwyn Levick.

6.7.2. At the time, the Levick Finance Group was an independent insurance brokerage selling life and investment products.

6.7.3. After the purchase, GRI expanded into other areas and over time, invested in the following lines of business:

- 6.7.3.1. offshore investments;
- 6.7.3.2. employee benefits;
- 6.7.3.3. short term insurance;
- 6.7.3.4. private wealth;
- 6.7.3.5. asset management;
- 6.7.3.6. expanded the existing insurance brokerage; and
- 6.7.3.7. institutional stockbroking.

6.7.4. A 2006 restructuring resulted in the Company assuming the role of the holding company within the group and in the investments previously held by GRI (either

wholly owned or as majority shareholder) being housed in separate subsidiary entities.

- 6.7.5. At the Commencement Date, the Company's investments included shares held in a number of South Africa privately held companies as well as two companies registered in the United Kingdom.
- 6.7.6. On a day-to-day basis, the Company was responsible for the centralised operations and the provision of certain resources into the group.

6.8. Background to the Company's Financial Distress

- 6.8.1. Investigations (and extensive media reports) into the dealings and activities of Mr Martin Levick ("**Levick**") outside of and unrelated to the Company, causing significant brand damage and resulted in uncertainty within the Company's and its operating subsidiaries' staff and clients.
- 6.8.2. The Company traditionally relied upon dividends declared to it by virtue of its investments held in and management fees earned from these underlying entities, the quantum of which was negatively impacted by the deteriorating operational performance of the operating subsidiaries due to impact of the ongoing scandal, the subsequent departure of Levick as the CEO and director of the Company and the sequestration of his personal estate.
- 6.8.3. In addition to the aforesaid, investors in the Company became increasingly concerned about loans made to the Company.
- 6.8.4. The COVID-19 pandemic negatively impacted the valuations of the Company's assets (being its investments in various South African and UK entities) which, together with the reduction in income set out above, gave rise to the directors concluding that the Company was financially distressed as contemplated in section 128 of the Companies Act.

6.9. Historic Trading

	YEAR TO DATE: April-2020	YEAR TO DATE: Mar-2020	YEAR TO DATE: Mar-2019	YEAR TO DATE: Mar-2018
INCOME				
Commissions Received	0.00	391,340.47	496,068.20	272,819.57
- New Business	0.00	172,997.60	381,332.54	269,998.25
- Renewal Business	0.00	218,342.87	114,735.66	2,821.32
Commission Paid	0.00	387,151.38	482,522.31	280,224.06
Net Commission Received	0.00	4,189.09	13,545.89	-7,404.49
Sundry income	330,466.87	49,541,578.62	43,719,885.61	45,292,323.56
GROSS TOTAL INCOME	330,466.87	49,545,767.71	43,733,431.50	45,284,919.07
EXPENSES	2,226,421.09	55,374,573.28	37,226,759.65	34,640,334.48
NET PROFIT / -LOSS BEFORE INTEREST	-1,895,954.22	-5,828,805.57	6,506,671.85	10,644,584.59
Interest Received	716.11	1,163,114.82	2,772,550.68	1,972,266.54
Interest Paid	1,320,657.91	14,863,054.64	12,844,726.97	8,371,244.43
NET PROFIT / -LOSS BEFORE TAXATION	-3,215,896.02	-19,528,745.39	-3,565,504.44	4,245,606.70
Taxation	0.00	0.00	0.00	0.00
NET PROFIT / -LOSS	-3,215,896.02	-19,528,745.39	-3,565,504.44	4,245,606.70

6.10. Balance Sheet

	Apr-20	Mar-20	Mar-19	Mar-18
<u>EQUITY AND LIABILITIES</u>				
Share capital	96,295,586.06	96,295,586.06	98,295,586.06	97,295,586.06
Retained income	1,582,052.62	4,625,884.64	24,154,630.03	27,720,134.47
- Retained income	4,797,877.85	24,154,630.03	27,720,134.47	23,474,527.77
- Net profit this year	-3,215,825.23	-19,528,745.39	-3,565,504.44	4,245,606.70
	97,877,638.68	100,921,470.70	122,450,216.09	125,015,720.53
External loans payable	89,708,083.63	81,442,130.21	85,693,980.64	49,275,835.66
Inter company loans payable	39,497,762.32	37,334,632.69	25,035,191.61	18,549,329.34
Current liabilities	6,866,076.19	16,423,498.35	14,272,298.76	5,603,487.99
- Creditors and accruals	3,301,317.88	12,562,985.78	12,657,532.57	4,027,368.23
- Provisions	3,662,246.61	3,661,445.43	1,342,148.78	1,352,921.87
- Control accounts	-97,488.30	199,067.14	272,617.41	223,197.89
Deferred taxation provision	17,188,848.34	17,188,848.34	17,188,848.34	17,188,848.34
Total equity and liabilities	251,138,409.16	253,310,580.29	264,640,535.44	215,633,221.86
<u>ASSETS</u>				
Property, plant and equipment	941,845.89	969,186.48	1,210,456.44	277,781.23
Investments in subsidiaries	16,597,386.00	159,940,089.61	144,967,329.83	118,694,014.83
Investments other	159,765,039.61	18,000,000.00	21,124,534.08	21,124,534.08
Inter company loans receivable	68,694,937.81	69,356,922.38	86,900,989.50	55,112,999.56
Current assets	5,139,199.85	5,044,381.82	10,437,225.59	20,423,892.16
- Accounts receivable	9,538,520.81	9,338,949.38	4,608,641.06	9,030,654.13
- Bank and cash	-4,399,320.96	-4,294,567.56	5,828,584.53	11,393,238.03
Total assets	251,138,409.16	253,310,580.29	264,640,535.44	215,633,221.86

6.11. A Summary of the Company's Material and Realisable Assets and Security Held In Respect Thereof

- 6.11.1. As required in terms of section 150(2)(a)(i) of the Companies Act, a list of the material and realisable assets of the Company at book value, and the security given in relation thereto as at the Commencement Date, is attached hereto as **Annexure A**.

6.12. Creditors of the Company at the Commencement Date⁴

6.12.1. A detailed list of the Creditors of the Company, according to the records of the Company, and incorporating the Claims received by the Practitioners from Creditors as at the Commencement Date is attached hereto as **Annexure D**.

6.12.2. In summary:

Category	Value
Secured Creditors	40,381,753.00
Preferent Creditors	198,646.59
Unsecured Creditors	126,451,198.10

6.12.3. Annexure D indicates the Claim of each Creditor per the Company's records and which of the Pre-Commencement Creditors:

6.12.3.1. Would qualify as secured, statutorily preferent or current in terms of the laws of insolvency, and

6.12.3.2. The quantum claimed by Creditors in their Claim forms as received by the Practitioners to date (where claim forms have been received).

6.12.4. Creditors' Voting Interest and Voting:

6.12.4.1. A Creditor who has a contingent, prospective, unliquidated, disputed and/or damages claims will not be entitled to vote at the Meeting.

6.12.4.2. A Creditor whose Claim does not accord with the books and records of the Company will only be permitted to vote to the extent reflected in such records and as determined by the Practitioners, but subject to their sole discretion.

6.12.4.3. A Creditor with a Disputed Claim, contingent Claim, prospective Claim, damages or unliquidated Claim will be permitted to vote at the Meeting in the sole discretion of the Practitioners.

6.12.4.4. PCF Creditors with claims as contemplated in section 135(1) of the Companies Act, will be entitled to vote at the Meeting to the value of their respective PCF Claims as at the Publishing Date.

⁴ Section 150 (2)(a)(ii) of the Act

- 6.12.4.5. The Practitioners have assessed the voting interest of Creditors and advised all non-independent creditors, in writing, of their determination in this regard.
- 6.12.5. In regard to Annexure D the following is to be noted:
- 6.12.5.1. The Practitioners has not formally adjudicated any of the Claims and the adjudication process is ongoing; and
- 6.12.5.2. The recordal of the Claims and quantum of the voting interest attributable to each claim in Annexure D is no reflection of the actual or true value of each Creditors' claim, is not final or binding on the Company and the Practitioners, is preliminary only and will be utilised by the Practitioners solely for the determination of the voting interests as defined in section 128 of the Companies Act;
- 6.12.5.3. The recordal of Claims therein is without admission of liability, not binding on the Company or the Practitioners and is without prejudice to the Company and the Practitioners' rights to challenge and/or dispute all or any of the Claims on any basis whatsoever. All and any such disputes will be determined per the procedures set out below, which determination will be binding on all parties; and
- 6.12.5.4. Any interest claimed by unsecured Creditors in respect of their Claims shall, if supported by documentation to the satisfaction of the Practitioners in his sole discretion, be calculated as simple interest.
- 6.12.6. The Practitioners has a discretion whether or not to allow a Creditor to lodge any Claim after the Final Claims Date.
- 6.12.7. Creditors who lodge Claims after the Final Claims Date, and whose Claims have been accepted by the Practitioners in the exercise of the Practitioners' aforesaid discretion, agree to and do forfeit their right to participate in any Distribution(s) that have been made prior to the lodgement of their Claims.

- 6.12.8. All Creditors who lodge Claims must do so to the satisfaction of the Practitioners. Claims must be supported by affidavits which are to contain such information and are to be accompanied by such supporting documents as ordinarily required for proving claims in accordance with the aforesaid statutory provisions of the Insolvency Act, before becoming eligible to receive payment in terms of this Business Rescue Plan. All claim forms and supporting documentation are to be delivered to businessrescue@mazars.co.za.
- 6.12.9. In the event that simple interest applies to any accepted Claim, a Creditor will only be entitled to payment of such interest once the capital amount outstanding has been paid in full.
- 6.12.10. If this Plan is adopted, all Disputed Claims will be dealt with and resolved as recorded in paragraph 4 below.
- 6.12.11. In light of the global COVID-19 pandemic and the regulations and measures implemented by the government of South Africa, the following process will apply in respect of the Meeting and voting in terms of section 152 of the Companies Act:
- 6.12.11.1. Affected Persons are requested, where possible, to address any questions and/or proposed amendments to the Practitioners at businessrescue@mazars.co.za in advance of the Meeting in order that they may consider and, where possible, address same prior thereto;
- 6.12.11.2. The Meeting will be held electronically via Zoom, a hyperlink providing access to the Meeting will be circulated prior to the Meeting;
- 6.12.11.3. All voting will be conducted by way of proxy and in terms of the voting ballots circulated together with the Business Rescue Plan. All forms of proxy lodged on behalf of a company, other legal entity or trust are to be accompanied by a resolution supporting the appointment of the proxy;
- 6.12.11.4. Creditors are encouraged to lodge their proxies as soon as possible but by no later than 10:30 on Thursday, 3 September 2020. A Form of Proxy is circulated together with this Business Rescue Plan;
- 6.12.11.5. In the event that queries and/or proposed amendments are received prior to or during the Meeting and:
- 6.12.11.5.1. Such queries and/or proposed amendments are capable of being dealt with during the Meeting, the Practitioners will adjourn the Meeting for a minimum

of 1 (one) hour (or such length of time as is appropriate in the circumstances) in order to receive any further voting ballots or amended ballots and will thereafter reconvene the Meeting to announce the outcome of the vote; or

6.12.11.5.2. Such queries and/or proposed amendments are not capable of being dealt with during the Meeting:

6.12.11.5.2.1. the Practitioners will adjourn the Meeting for a period of 5 Business Days (“**the Adjourned Period**”) to allow the Practitioners to consider and respond to such queries and/or proposed amendments;

6.12.11.5.2.2. the Practitioners will circulate their responses to any queries and/or proposed amendments during the Adjourned Period;

6.12.11.5.2.3. Creditors will be afforded until 17h00 on Thursday, 10 September 2020 to lodge their proxy or amended proxy;

6.12.11.5.2.4. The Meeting will be reconvened on Friday, 11 September 2020 for the purposes of considering and, if appropriate, voting the Plan as amended.

6.12.11.6. Notwithstanding what is set out in this paragraph, the Practitioners may in their sole discretion make any change to the process referred to above, which change will be notified to Affected Persons in writing.

6.13. Late Claims:

6.13.1. Creditors who have not submitted their Claims to the Practitioners prior to the Publication Date may, up to the Final Claims Date, submit them with all supporting documentation. Such Claims will be adjudicated by the Practitioners and, if accepted, will form part of this Business Rescue Plan as adopted by Creditors and will, subject to the provisions of paragraph 6.12.7, bestow the entitlement to participate in Distributions.

6.13.2. Claims not submitted to the Practitioners before the Final Claims Date:

6.13.2.1. are forfeited as against the Company;

6.13.2.2. will no longer be of any force and effect as against the Company; and

6.13.2.3. are taken to have been, and will be treated as, abandoned as against the Company.

6.14. Disputed Claims:

6.14.1. In respect of all or any disputes concerning Claims submitted by Creditor(s) and PCF Creditors which includes but is not limited to disputes as to the validity of, the existence, enforceability or otherwise of any Claim(s), dispute on quantum of Claim(s), the security claimed by a Creditor, the nature of the security, the extent and value of the security and the like (“**the Dispute(s)**”) then such Dispute(s) can only be resolved in accordance with the dispute(s) mechanism and process set out below.

6.14.2. This dispute mechanism will work as follows:

6.14.2.1. all Creditors who have received written notification from the Practitioners of a Dispute are within seven Days of such receipt, to contact and meet the Practitioners during this period, in an attempt to reach agreement on all or any of the aspect(s) of the Disputes.

6.14.2.2. if the Creditor does not avail itself of this 7 Day opportunity or if after having availed itself the Dispute is not resolved, such Creditor will be afforded a further 7 Days (reckoned from the date of expiry of the first 7 Day period) to nominate one of the advocates who are members of the Cape Town Bar from the list below as an expert (not as an arbitrator or mediator) to preside over and to resolve the dispute. Should the Creditor not make this nomination, the Practitioners will do so on his/her/its behalf and this nomination will be binding on the Creditor(s). The list of these advocates are:

- Advocate Arnold Subel SC
- Advocate Christopher Loxton SC
- Advocate Ross Hutton SC
- Advocate Noel Graves SC
- Advocate Robin Pearce SC
- Advocate Jonathan Blou SC

6.14.2.3. After nomination, the advocate who agrees to accept such appointment (hereinafter referred to as “**the Expert**”) will be asked to complete his task/mandate within 30 Days of this appointment or within such further time period as the Expert in his or her sole discretion may determine. To the extent

that any Expert nominated by the Creditor refuses to act or is not available to act, the Creditor is afforded 3 Days after learning of this fact to choose another advocate(s) from the above list until one such advocate is available to act and is agreeable to act. Should the Creditor refuse to nominate another advocate as set out above, or should he/she/it not do so within 3 Days of being requested to do so by the BRP, the Practitioners shall do so on his/her/its behalf and such nomination shall be binding on such Creditor.

6.14.2.4. The Expert will in his sole and absolute discretion:

- determine the venue at which the Dispute is to be resolved;
- determine the rules, regulations and procedures that will govern the determination of the Dispute;
- determine the date(s) for the determination of the Dispute;
- give an award / determination within 5 Days of the completion of the process as determined by him;
- as part of the award / determination, determine who is liable for the costs of the determination such costs to include his costs, legal costs,
- determine venue costs, cost of any recording equipment (if applicable), transcript of evidence (if applicable) and the like.

6.14.2.5. The Creditor/s agree/s that the determination of the Expert will be final and binding on him/her/it/the Company and the Practitioners, and will not be subject to any subsequent appeal application/procedure/process, save for a review in respect of any manifest error.

6.14.2.6. The Creditor, the Company and the Practitioners agree to use their best endeavours to ensure that the entire Dispute is determined by the Expert within the 30 Days period as set out above.

6.15. List of the Holders of the Company's Issued Securities:⁵

⁵ Section 150(2)(a)(iv) of the Act

- 6.15.1. The Company has an authorised share capital of 1 000 000 ordinary shares of which it has issued 240 154 ordinary shares. If this Plan is adopted by the Creditors, the Company's shareholding will remain unaltered.
- 6.15.2. According to the records available to the Practitioners, at the Commencement Date the Shareholders are as reflected in Annexure C hereto.
- 6.15.3. No other shares have been issued by the Company and the directors have declared that no shares have been promised to any third parties and that there is no outstanding share interest to be issued.
- 6.16. Practitioners' Remuneration⁶ or Agreement Concerning Practitioners' Remuneration⁷
- 6.16.1. The regulations to the Companies Act prescribe an hourly rate (inclusive of VAT) for the payment of the fees of the Practitioners. For the purposes of determining the Practitioners' hourly remuneration, the Company is regarded as a medium sized company.
- 6.16.2. In terms of regulation 128(1)(c) of the Companies Act, a business rescue practitioners appointed for a medium sized company is entitled to charge R1 500 an hour (inclusive of VAT) and up to a maximum of R18 750 (inclusive of VAT) a day.
- 6.16.3. To date, the Practitioners has charged their time at the prescribed tariff rates set out above.
- 6.16.4. The Practitioners intend proposing a success fee arrangement over and above the hourly tariff reflected above, which proposal will be subject to meetings as required in terms of section 143 of the Companies Act. Notices to this effect will be circulated in due course.
- 6.17. Proposals made by a Creditor⁸

⁶ Section 143(2) of the Act

⁷ Section 150(2)(a)(v) of the Act

⁸ Section 150(2)(a)(vi) of the Act

- 6.17.1. This Business Rescue Plan was prepared after engagement and consultation with Affected Persons and does not include any informal proposals made by a Creditor or Creditors of the Company.
- 6.17.2. A formal proposal received from Calculus, set out in further detail in Part B of this Plan, forms part of the Proposal.

6.18. Events Leading to the Plan

- 6.18.1. The following summary sets out the salient dates on which certain significant events of the Business Rescue Proceedings have taken and will take place:

Board resolution commencing the Proceedings	8 May 2020
CoR123.1 and CoR123.2 documents submitted to CIPC	8 May 2020
First Employees' Representatives Meeting	22 May 2020
First Creditors' meeting	22 May 2020
Plan published	21 August 2020
Meeting to consider the Plan in terms of sections 151 and 152 of the Act	4 September 2020 (10h30-12h00)

6.19. Actions taken by the Practitioners since their appointment:

- 6.19.1. Attended to compliance of the provisions of section 129(3) of the Companies Act;
- 6.19.2. Dispatched all statutory notifications and publications;
- 6.19.3. Arranged and presided over the first creditors' meeting;
- 6.19.4. Arranged and presided over the first employees' representatives meeting;

- 6.19.5. Conducted limited investigations into affairs of the Company;
- 6.19.6. Attended meetings and held consultations regarding proposed rescue of the Company;
- 6.19.7. Review of the Company's financial records;
- 6.19.8. Review of the Company's asset register;
- 6.19.9. Valuation of the Calculus Shares;
- 6.19.10. Attended meetings and held consultations/discussions with key stakeholders;
- 6.19.11. Attended meetings and held consultations/discussions with employees;
- 6.19.12. Correspondence;
- 6.19.13. Receipt of Claims; and
- 6.19.14. Various legal issues.
- 6.20. Section 141 Investigations
 - 6.20.1. Since their appointment the Practitioners have, to the best of their abilities, investigated the Company's affairs, business, property and financial situation with a view to determining whether there is any reasonable prospect of the Company being rescued.
 - 6.20.2. The Practitioners investigations have been curtailed by time and financial constraints. If the Company is ever liquidated its liquidator(s) may, in accordance with their far-reaching powers under the Companies Act and Insolvency Act, undertake further detailed investigations into the trade dealings and affairs of the Company.
 - 6.20.3. Below is a summary of the material investigations undertaken by the Practitioners in terms of sections 141(1) of the Companies Act.

The Pledge

- 6.20.4. During the course of their investigations, the Practitioners were presented with the Pledge.
- 6.20.5. In terms thereof, the Company pledged and ceded *in securitatum debiti* to Calculus the Calculus Shares as security for R78 043 191 plus interest and other costs in respect of various amounts paid by Calculus to the Company.
- 6.20.6. At the Commencement Date Calculus was in possession of the Calculus Shares as well as signed share transfer forms from the Company.
- 6.20.7. On 27 July 2020 Calculus sent a written demand to the Company for payment of various amounts covered by the Pledge. The Company did not pay.
- 6.20.8. On 31 July 2020, Calculus exercised its rights in terms of the Pledge under written notification to the Company and placed a value of R56 150 274 on the Calculus Shares, elected to repurchase 200 820 of such shares, set-off the purchase price therefor against the debt it had called up on 27 July 2020, cancelled said shares and confirmed that the Remaining Calculus Shares continued to be held by it as security for the balance of the R78 043 191 plus interest and other costs referred to above.
- 6.20.9. In the exercise of its rights under the Pledge, and arising from the recent valuation of the Calculus Shares conducted by BDO, on 31 July 2020 the Company formally disputed the value attributed by Calculus to the Calculus Shares and requested that, as provided for in the Pledge, the matter be referred to an independent merchant banker for final determination.
- 6.20.10. Consequent upon the foregoing, the Practitioners (on behalf of the Company) engaged with Calculus's representatives in without prejudice discussions to discuss, *inter alia*, the disputed valuation of the Calculus Shares and whether Calculus would release the Remaining Calculus Shares or purchase said shares to enable the Practitioners to realize value therefor with a view to preparing this Business Rescue Plan. Those negotiations gave rise to the Calculus Offer attached hereto as Annexure B, the terms of which are self-explanatory and will be further discussed by the Practitioners at the meeting on 4 September 2020.

Section 141(2)(c) of the Companies Act

- 6.20.11. If during the course of their investigations in terms of section 141(1) of the Companies Act, the Practitioners conclude that there is evidence of misconduct as contemplated in section 141(2)(c) of the Companies Act, the Practitioners must

forward such evidence to the relevant authorities for further investigations and/or prosecution, and direct management of the Company to take any necessary steps to rectify the matter.

- 6.20.12. At the First Meeting of Creditors, and in communications subsequent thereto, the Practitioners invited Affected Persons who had substantive evidence of wrongdoing or improper conduct on behalf of management or any other person connected with the Company to forward such evidence to them for further investigation.
- 6.20.13. A number of the Affected Persons who initially alleged impropriety by Genesis and/or its directors did not provide any cogent evidence of such alleged misconduct to the Practitioners. Some of the Affected Persons did engage with the Practitioners on a variety of issues and concerns, including alleged impropriety by Genesis and/or its directors – in particular of Levick. Whilst there certainly are consistent allegations of impropriety by Levick, no Affected Person provided irrefutable evidence thereof such that would enable the Practitioners to require them to take any further steps as contemplated in section 141(2)(c) of the Companies Act. That is not to say that such evidence does not exist, but simply that the powers of the Practitioners are limited as regards to their ability to appropriately investigate the allegations further, particularly when regard is had to the time and financial constraints referred to above.
- 6.20.14. The Practitioners will continue to exercise their statutory obligations in terms of section 141 of the Companies Act.

6.21. Formulation of the Business Rescue Plan

- 6.21.1. The Proposal for the consideration by Affected Persons, as set out in paragraph 7 below, is premised on the realisation of the Assets in a controlled and orderly manner.
- 6.21.2. Alternatively, and in the event that the Plan set out above fails, the Practitioners and the Company will pursue a wind-down scenario as contemplated in terms of section 128(1)(b)(iii) of the Companies Act in that the estimated Distribution payable to Creditors on the disposal of the Company's Assets will result in a better return to Creditors than would otherwise be the case in the immediate liquidation of the Company.

6.22. Probable Liquidation Dividend

6.22.1. The liquidation estimate set out herein is presented in compliance with the requirement of the Companies Act.⁹

6.22.2. Upon the liquidation of a company it is the appointed liquidators' duty to realise the assets of that company for the benefit of Creditors as soon as possible.

6.22.3. In compliance with the Companies Act and in order to calculate the expected liquidation dividend Creditors, in their various classes, and shareholders may expect to receive in the event of the liquidation of the Company, the Practitioners obtained an opinion from Mazars. Mazars was requested to calculate the expected realisable value of the Assets as well as the expected expenses that would be incurred¹⁰ by an appointed liquidator, and to estimate the probable liquidation dividend that Creditors and shareholders, in their various classes, may expect to receive in the event of the liquidation of the Company.

6.22.4. Mazars' calculation of the probable dividend that Creditors and shareholders may receive, in their respective classes, if the Company were to be placed in liquidation is set out in the attached **Annexure E**.¹¹

6.22.5. Annexure E concludes as follows:

Creditor	Claim	Est. Distribution	Cents per Rand
Secured Creditors			
Calculus Capital (Pty) Ltd	-40,302,571	40,302,571	-100
Preferent Creditors			
Staff	-848,408	848,408	-100
SARS	-4,377	4,377	-100
Concurrent Creditors	-125,876,242	45,354,189	-30 to -40

Note: the estimated liquidation dividend as reflected in Annexure E is calculated on a forced sale basis of the Assets.

6.22.6. Shareholders of the Company will not receive any dividends from a liquidation of the Company.

⁹ Section 150 (2)(a)(iii) of the Act

¹⁰ Section 89 of the Insolvency Act

¹¹ Annexure F

7. **PART B- PROPOSAL**¹²

7.1. **Objective of the Business Rescue Plan**

7.1.1. The purposes of business rescue proceedings as provided for in section 7(k) and Chapter 6 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 identified stakeholders.

7.1.2. Section 128(1)(b)(ii) of the Companies Act provides for the rescue of financially distressed companies by way of the development and implementation of a business rescue plan that:

7.1.2.1. restructures the company's 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 above is not possible, results in a better return for the company's creditors or shareholders than would otherwise result from the immediate liquidation of the company.

7.1.3. This Business Rescue Plan seeks to:

7.1.3.1. rescue the Company by implementing the Proposal set out herein; and

7.1.3.2. provide Affected Persons with adequate information reasonably required to facilitate them in assessing the Proposal prior to the voting to be conducted at the Meeting.

7.2. **Summary of the proposal in terms of this Business Rescue Plan**

7.2.1. The Practitioners, together with the assistance of Management, have objectively assessed the Company as well as all commercially feasible business rescue scenarios.

7.2.2. Pursuant to the aforementioned assessments, and after consultation with the relevant Affected Persons, the Practitioners and the Company propose the implementation of the Proposal to rescue the Company.

7.2.3. The Proposal comprises two parts:

7.2.3.1. In the First Part, the sale of the Assets by way of the Realisation of Assets and as set out more fully in paragraph 7.4 below; or

¹² Section 150 (2) (b) of the Act

- 7.2.3.2. In the event that the aforesaid is not possible, the Second Part will be the implementation of a wind-down process in terms whereof the Practitioners will seek to realise all remaining assets in a manner the Practitioners in their discretion deem appropriate given the circumstances prevailing at the time.

The Plan

7.3. First Part – Realisation of Assets

- 7.3.1. The First Part of the Proposal is the Realisation of Assets.
- 7.3.2. Due to timing and liquidity constraints facing the Company at the beginning of the Proceedings, the Practitioners embark upon the process of the Realisation of Assets in conjunction with a parallel process of having the Calculus Shares, being the largest asset, independently valued by BDO.
- 7.3.3. The proposed Realisation of Assets is as follows:
- 7.3.3.1. Calculus Shares:
- 7.3.3.1.1. As recorded above, at the Commencement Date, the Company held the Calculus Shares, which shares were subject to the Pledge;
- 7.3.3.1.2. Calculus exercised its rights in terms of the Pledge in the amount of R40 318 753 (forty million three hundred and eighteen thousand seven hundred and fifty three Rand), leaving the Remaining Calculus Shares subject to the Pledge;
- 7.3.3.1.3. In terms of the Calculus Proposal, and upon fulfilment of the conditions precedent set out in paragraph 7.4.3.5 below, an amount of R20 000 000 (twenty million Rand) will be immediately available for distribution to as provided in in the waterfall of payment in paragraph 7.5.4 below; and
- 7.3.3.1.4. In addition to the R20 000 000 aforesaid, and in the event that some or all of certain confidential liabilities identified by Calculus do not materialise between the Adoption Date and 30 June 2023, an Agterskot up to a maximum as reflected in Annexure B hereto will be payable by Calculus to the Company and available for distribution;
- 7.3.3.1.5. The Calculus Proposal is subject to the fulfilment of the following conditions precedent by no later than 30 September 2020:
- 7.3.3.1.5.1. the conclusion of a written and binding agreement between the Company and Calculus governing the Calculus Proposal and such agreement becoming unconditional in accordance with its terms; and

- 7.3.3.1.5.2. the adoption of this Business Rescue Plan.
- 7.3.3.2. Alefbet Shares:
 - 7.3.3.2.1. Receipt of the Alefbet Payments in terms of the Alefbet Sale Agreement.
- 7.3.3.3. The Sale Process:
 - 7.3.3.3.1. The sale of the Assets excluding the Calculus Proposal and the Alefbet Shares.

7.4. Second Part – Wind-Down Scenario

- 7.4.1. In the event that the First Part of the Proposal set out above fails, the Practitioners will pursue the wind-down process, which will be implemented after the date on which the Realisation of Assets fails or such earlier date as the Practitioners may, in their sole discretion, determine.
- 7.4.2. The wind-down process entails the following:
 - 7.4.2.1. the realisation of all the then remaining Assets by way of private treaty, public auction or any other manner which the Practitioners deem appropriate in the circumstances prevailing at that time and over a period to be determined by the Practitioners in their sole discretion; and
 - 7.4.2.2. the recovery of any and all amounts due but not yet received by the Company in respect of the historical sale/s of any Assets (which may, in the Practitioners' sole and absolute discretion, include compromising any claims owing to the Company in order to receive payment sooner than the debtor is obliged to settle its indebtedness to the Company).
- 7.4.3. In the event of a wind-down scenario, the Practitioners will provide periodic updates to Affected Persons and the Creditors' Committee. Notwithstanding such updates and any input which may be received from Affected Persons, the Practitioners have the authority to make the final determination in regard to the sales processes adopted and the acceptance or rejection of any offers received.

7.5. **PROPOSED PAYMENT ARRANGEMENT AND DISTRIBUTIONS TO CREDITORS**

- 7.5.1. On receipt of the Proceeds the Practitioners will distribute same in terms of the payment waterfall set out in paragraph 7.5.4 below.
- 7.5.2. The Proceeds will be under the control of and administered by the Practitioners until all the costs and expenses in the Proceedings have been settled and all Distribution/s have been paid to Creditors, excluding the Excluded Creditors, with accepted Claims.

- 7.5.3. It is agreed that any account created for these Proceedings and for the receipt of, *inter alia*, the Proceeds will be solely for the benefit of Creditors, the Practitioners and their advisors (in the latter two instances, to facilitate the payment of fees for services rendered). It will serve no other purpose and is not created for the benefit of any other person(s) whomsoever.
- 7.5.4. Subject to the terms of this Plan, the Practitioners will make the following payments in the order of statutory preference reflected in the Companies Act and will be distributed as follows:
- 7.5.4.1. Firstly, in compliance with the requirements of section 135 of the Companies Act, for the payment in full of the agreed remuneration and expenses of the Practitioners including but not limited to any legal, accounting, advisory, operating and other costs associated with the Proceedings in relation to the Company and the preparation of this Plan;
- 7.5.4.2. Secondly, to Secured Creditors (if any) in respect of their Pre-Commencement Secured Claims and to the extent of their security. Any residual Claim remaining after the realisation of such security will be treated as a Concurrent Claim;
- 7.5.4.3. Thirdly, and to the extent that amounts are outstanding to them, in settlement of any and all amounts owing to PCF Employees;
- 7.5.4.4. Fourthly, all other PCF Claims (if any) in the order in which they were incurred; and
- 7.5.4.5. Thereafter to the Concurrent Creditors in accordance with the conditions and provisions as set out herein.
- 7.5.5. At the Substantial Implementation Date the Company, under the auspices of the Practitioners, would have made payment to all its Creditors, excluding the Excluded Creditors, their entitlement to receive Distribution/s as provided for in this Plan. All and any other remaining assets of the Company, to the extent that there are any, will be the property of the Company (and will be available to it for its benefit and use) once the Proceedings have terminated.
- 7.5.6. The estimated Distributions to Creditors is as follows:

Creditor	Estimated Distribution
Secured Creditors	
Calculus Capital (Pty) Ltd	100 cents in the Rand
Preferent Creditors	
PCF Creditors (per Section 135 of the Act)	100 cents in the Rand
Unsecured Creditors	50 to 60 cents in the Rand

Note: see **Annexure F** hereto for a breakdown and assumptions.

7.6. Nature and Duration of Moratorium¹³

7.6.1. Save for the exceptions referred to in sections 133(1) and (2) of the Act and the circumstances referred to in section 134 of the Act, section 133 of the Companies Act places a moratorium on legal proceedings and enforcement action against the Company with effect of the Commencement Date. The intention of the moratorium is to give the Company the best possible prospects of successfully developing and implementing a business rescue plan.

7.6.2. The moratorium took effect on the Commencement Date and will remain in place until the Substantial Implementation Date or the termination of these Proceedings.

7.7. Extent to which the Company is to be Released from the Payment of Debts¹⁴

7.7.1. This Business Rescue Plan, based on the information contained herein, provides that the Company is released from paying the unpaid portion of its debts. The payments made to each Creditor prior to and in terms of this Plan will be treated as payments made in full and in final settlement of their Claims against the Company. The compromise of each of the Creditors' Claims in terms of this Plan shall take effect, and be effective from, the Adoption Date.

7.8. Ongoing Role of the Company / Treatment of Existing Agreements¹⁵

7.8.1. Upon the adoption and subsequent implementation of the proposed Business Rescue Plan, the Company will have substantially rearranged its financial affairs.

¹³ Section 150(2)(b)(i) of the Act

¹⁴ Section 150(2)(b)(ii) of the Act

¹⁵ Section 150(2)(b)(iii) of the Act

- 7.8.2. Creditors are thus presented with a Proposal that will, upon the adoption of this Business Rescue Plan and the subsequent implementation thereof, ensure a better return to them than would otherwise result from the immediate liquidation of the Company.¹⁶ After the Substantial Implementation Date the Company will be returned to the shareholders.
- 7.8.3. The Practitioners have not suspended or altered the terms of any existing agreements entered into between the Company and third parties. No agreements were cancelled by the Practitioners during the Proceedings¹⁷.
- 7.8.4. During the Proceedings, and to the extent possible given timing and financial constraints, the Company has and will continue to comply with all regulatory requirements. To the extent necessary, the Practitioners will engage with SARS in regard to any and all amounts owing to it post the Commencement Date, including but not limited to VAT claw back.
- 7.9. Property of the Company to be available to Creditors¹⁸ and Order of Preference to Apply¹⁹
- 7.9.1. This Business Rescue Plan proposes that the Proceeds, or in event that the Proposal fails and the Practitioners proceeds with the Part Two Wind-Down Scenario as contemplated in section 128(1)(b)(iii) of the Companies Act, will be distributed to the Creditors of the Company in full and in final settlement of their Claims, in the manner and order as detailed in this Plan.
- 7.9.2. Proposed arrangement between the Company and its Creditors:
- 7.9.2.1. The Company makes the Proposal contained in this arrangement to its Creditors, its shareholders and other Affected Persons as contemplated in the Act.

¹⁶ Section 128(1)(b)(iii) of the Act

¹⁷ Section 136 (2)(a) & (b) of the Act

¹⁸ Section 150(2)(b)(iv) of the Act

¹⁹Section 150(2)(b)(v)

- 7.9.2.2. The Proposal contained in this arrangement regulates the terms of the repayment of all amounts due to the Creditors of the Company and the rights of the Creditors shall be limited to only the right to claim payment in terms of this Business Rescue Plan. No Creditor shall have any other Claim against the Company or any third party (other than as set out in 7.10.2.3 and 7.10.3 below) pursuant to the adoption of this Plan²⁰.
- 7.9.2.3. Notwithstanding that the Plan may not settle Claims in full, the Plan in no way whatsoever novates, waives, nullifies or prejudices claims that a Creditor or a surety or guarantor has from any guarantee or suretyship it has received or enjoys to secure the Company's indebtedness to such Creditor/s, or has provided to secure the Company's indebtedness to such Creditors, and to the extent that any suretyships or guarantees are enforced against such sureties or guarantors, they reserve their rights to claim against the Company.
- 7.9.2.4. Subject to paragraph 7.9.2.3 above, upon the adoption of this Business Rescue Plan then:
- 7.9.2.4.1. a person, legal and/or natural, and a Creditor is not entitled to enforce any debt owed by the Company immediately prior to the Commencement Date except to the extent provided for in this Business Rescue Plan;
- 7.9.2.4.2. all Claims, to the extent not settled in full by the Substantial Implementation Date, are compromised once this Plan is adopted. Subsequent to the Adoption Date, the Company will thus have no liability to any person, Creditors, actual, contingent or prospective for any monies and/or losses, damages and/or the like other than as set out herein; and
- 7.9.2.4.3. this Business Rescue Plan once adopted and implemented will be in full and final settlement of any and all Claims of whatsoever nature and howsoever arising against the Company.

²⁰Section 152(4) and section 154(2) of the Act

7.9.3. Any and all rights that a Creditor has or may have to pursue any action against any directors of the Company in terms of the provisions of the Companies Act, remains and will not be affected by the adoption of the Plan.

7.9.4. Accordingly, the Practitioners are of the opinion that based on the information currently at their disposal, that this Plan results in a better return for the Company's creditors and shareholders than would result from the immediate liquidation of the Company.

8. **EFFECT ON SHAREHOLDERS**

8.1. This Business Rescue Plan does not alter or amend the shareholding of the Company.

9. **THE BENEFITS OF ADOPTING THE BUSINESS RESCUE PLAN AS OPPOSED TO LIQUIDATION SCENARIO**²¹

9.1. The implementation of this Proposal will render the Company solvent and the Company will exit these Proceedings and be returned to its shareholders. In the event that the Proposal fails, the structured wind-down thereof will render the Company solvent and it will exit these Proceedings as a non-trading entity with no material assets, the shareholders will then be at liberty to utilise the Company however they see fit.

9.2. It is envisaged that the Concurrent Creditors will, as provided for in this Business Rescue Plan, be paid an estimated 50 to 60 cents in the Rand in respect of their Claims against the Company. On the analysis contained in this Plan, this dividend is better to Creditors than would be the case in a liquidation of the Company as the liquidation calculation reflects that in that scenario Concurrent Creditors will receive an estimated 30 to 40 cents in the Rand dividend on liquidation.

9.3. The Plan achieves the express objective of section 7(k) of the Companies Act.

²¹ Section 150(2)(b)(vi) of the Act

- 9.4. It preserves the rights every Creditor or surety has or enjoys pursuant to any guarantee or suretyship given to secure the Company's indebtedness to it/them;
- 9.5. Liquidations are conducted under the auspices of the Master of the High Court. Over and above the fact that the Master's fees have recently been subjected to a material increase (thus increasing the costs of liquidation), business rescues are not as invasive and are completed within a quicker period of time. Without the Master's intervention and the substantial additional costs associated therewith, the Practitioners have the freedom and ability to efficiently finalise proceedings. This has the effect of creditors being paid in a comparatively shorter time frame, particularly considering the effects of lockdown and COVID19 which will inevitably cause material delays within the Master's Office.
- 9.6. In addition, the proposed remuneration is less than would otherwise be payable to any liquidator upon the realisation of the Assets.

10. **RISKS OF THE BUSINESS RESCUE PLAN**

- 10.1. Notwithstanding what is set out herein, these Proceedings and the estimated Distribution/s payable to Creditors in terms of the Business Rescue Plan could be adversely affected by, amongst others, the following:
 - 10.1.1. fulfilment of the conditions precedent attached to the Calculus Proposal;
 - 10.1.2. unforeseen litigation of any nature whatsoever, howsoever arising, from any cause of action whatsoever;
 - 10.1.3. unforeseen damages claims;
 - 10.1.4. any changes to legislation relating to business rescue proceedings;
 - 10.1.5. any challenges to the Business Rescue Plan, the rejection thereof or any proposed amendments thereto;
 - 10.1.6. any unforeseen circumstance outside of the control of the Practitioners;
 - 10.1.7. the revocation of support by any party material to this Business Rescue Plan as formulated;
 - 10.1.8. material discrepancies in information provided to the Practitioners;
 - 10.1.9. the finalisation of the adjudication process in regard to Claims and the final verification of the quantum of Claims, including any material delay in this process; and
 - 10.1.10. the finalisation of the Dispute Resolution Process, including any material delay in this process.

10.2. Affected Persons are reminded that, in the event of the immediate liquidation of the Company, the majority of the risks recorded above would continue to apply.

11. **BUSINESS RESCUE PLAN: PART C- ASSUMPTIONS AND CONDITIONS**²²

11.1. The Plan has the following Key Assumptions:

11.1.1. The receipt of the Proceeds on or before the stipulated date and the fulfilment of any conditions precedent in order for the Practitioners to thereafter distribute to Creditors with accepted Claims as provided for in this Plan.

11.2. Statement of Conditions to be Satisfied²³

11.2.1. The Business Rescue Plan is conditional on its adoption by the Creditors having the majority voting interest as defined in section 152 of the Companies Act.

11.3. Effect of this Proposed Business Rescue Plan on the number of Employees²⁴

11.3.1. During the Proceedings, the Company concluded the rationalisation process instituted prior to the Commencement Date which included the retrenchment of its entire staff compliment. Such employees were retrenched in the ordinary course due to operational requirements, and with the exception of Stanley Melnick, all retrenched employees have been paid the statutory amounts due to them in terms of applicable labour legislation.

11.4. Circumstances in which the Business Rescue will end²⁵

11.4.1. It is proposed that the Proceedings will end when:

11.4.1.1. this Plan is proposed and rejected and no Affected Person/s act to extend the Proceedings in any manner contemplated by the Act;

²² Section 150(2)(c) of the Act

²³ Section 150(2)(c)(i) of the Act

²⁴ Section 150(2)(c)(ii) of the Act

²⁵ Section 150(2)(c)(iii) of the Act

11.4.1.2. this Plan is adopted and implemented and the BRPs have filed a notice of substantial implementation of the Plan with the CIPC;

11.4.1.3. a Court orders the conversion of the Business Rescue Proceedings into liquidation proceedings.

11.5. Substantial Implementation

11.5.1. Substantial implementation will take place, subject to the below conditions having been met to the satisfaction, and in the sole discretion, of the Practitioners, on the 7th (seventh) Business Day after:

11.5.1.1. The receipt of the Proceeds or, in the event of the failure of Part One of the Proposal, the Part Two Wind-Down Scenario and the disposal of the business and/or shares and/or Assets having been realised and the proceeds received by the Practitioners;

11.5.1.2. The Practitioners has adjudicated all Claims and paid all costs associated with these Proceedings;

11.5.1.3. Payment of all costs associated with the Proceedings; and

11.5.1.4. Payment by the Practitioners of all funds available for distribution to Creditors as provided for in this Plan.

11.6. Pending Litigation

11.6.1. All parties who have instituted legal proceedings, including any enforcement action, in respect of any Claims against the Company, in any forum whatsoever, will be subject to the dispute resolution provisions set out in paragraph 6.14 above.

11.7. Projected Balance Sheet, Detailed Statement of Income and Expenses and Cash-Flow Forecast for the Ensuing Three Year Period²⁶

²⁶ Section 150 (2)(c)(iv) of the Act

- 11.7.1. The Companies Act requires that a projected balance sheet and statement of income and expenses and cash-flow forecast for the ensuing three years be included in the Business Rescue Plan.
- 11.7.2. If the Proposal is implemented, there will be no continuation of the Company as an operational business and as such no projected balance sheet or statement of income and expenses is included herein. A cash-flow forecast for the estimated time between the Adoption Date and the Substantial Implementation Date is attached as **Annexure G** hereto.

12. **GENERAL PROVISIONS**

- 12.1. Affected Persons who vote against this Business Rescue Plan are referred to the provisions of section 153(1)(b)(iii) of the Act²⁷ in terms of which any Affected Person or combination of Affected Persons may make a binding offer to purchase the voting interest of one or more persons who opposed the adoption of the Business Rescue Plan at a value independently and expertly determined, on the request of the Practitioners, to be a fair and reasonable estimate of the return to that person, or those persons, if the Company was to be liquidated.
- 12.2. The Practitioners shall have the ability, in their sole and absolute discretion, to amend, modify or vary any provision of this Plan, provided that the Practitioners procures approval thereof by a simple majority of Creditors. The amendment, modification or variation will be deemed to take effect on the date of written notice of the amendments to all Affected Parties.
- 12.3. It is expressly recorded that the provisions of paragraph 12.2 above shall also apply to the extension or reduction of any timeframes by the Practitioners.
- 12.4. Notwithstanding anything herein contained to the contrary, if the Company defaults on any of its obligations in terms of this Plan, and it appears to the Practitioners that it will not be able to remedy this breach within a reasonable period of time, the Practitioners may, after consulting Affected Persons and the Company, launch an application to wind up the Company.

²⁷ Refer to section 153 (1) (b) (iii) of the Act

13. **CONCLUSIONS**

13.1. For the reasons set out above:

13.1.1. the implementation of the Plan is expected to result in a better return to Concurrent Creditors as opposed to immediate liquidation, where Concurrent Creditors will receive an estimated 50 to 60 cents in the Rand; and

13.1.2. should the Plan not be approved and adopted, Affected Persons will be prejudiced as the Practitioners is of the view that the Proceedings will have to be converted to liquidation proceedings. Liquidation proceedings will result in further delays and substantial additional costs – which is likely to result in a lower dividend to Creditors than is estimated in terms of this Plan.

CERTIFICATE

I the undersigned:

FENWICK NEIL MILLER and BYRON NORMAN CHEVALIER

hereby certify that the information provided herein is accurate and projections provided herein are made on the basis of good faith based on factual information.

SIGNED AT CAPE TOWN ON THIS THE 21st DAY OF AUGUST 2020.



F N MILLER

BUSINESS RESCUE PRACTITIONER



B N CHEVALIER

BUSINESS RESCUE PRACTITIONER

