



(Under Business Rescue)
31 Spanner Road
Clayville
Olifantsfontein
1666

05 January 2025

COMMITTEE OF EMPLOYEES

SAEWA

Attention: Simon Macheke

Per Email: simon@saewa.co.za

AFADWU

Attention: Isaac Ngubeni

Per Email: ngubenii@afadwu.org.za

Isaacngubeni202@gmail.com

FAWU

Attention: Richard Aphane

Per Email: richard.aphane@fawu.org.za

SACTWU

Attention: Tshepo Makhene

Per Email: tshepom@sactwu.org.za

Dear Sirs,



(Under Business Rescue)
31 Spanner Road
Clayville
Olifantsfontein
1666

**NOTICE IN TERMS OF SECTION 189(3) READ WITH SECTION 189A OF THE LABOUR
RELATIONS ACT, 1995**

1. INTRODUCTION

- 1.1. The Company was placed under business rescue on 12 June 2025 in terms of Section 129 of the Companies Act 71 of 2008 (**the CA**). Mr Tebogo Christopher Raymond Maoto was appointed as the senior business rescue practitioner (**BRP**) on the same day.
- 1.2. The Company's business rescue plan (**the Plan**) was formally adopted by the requisite majority of creditors on 26 September 2025.
- 1.3. In terms of the Reactivation Phase, the Plan proposes three possible options. These options are summarised at page 38 of the Plan.
- 1.4. In summary, the best-case scenario to ensure the future viability of the Company is the implementation of the first option, encompassing the full capacity operation of the hatchery and breeder facilities, as well as the restart of the Sundra Abattoir. This is referred to as the reactivation of option.
- 1.5. One of the key focus areas for the proposal to rescue the Company, is labour rationalisation.
- 1.6. At present, the Company's only operational divisions are its breeders and hatchery operations. In addition, certain skeleton staff remain operational in the Company's head office.
- 1.7. The proposed full ramp up of production at the aforesaid divisions, together with the restart of the Sundra Abattoir will be implemented over a period of up to 12 months,

on condition that the Company receives the required funding as envisaged in the Plan.

- 1.8. Having regard to the Company's strategy to systematically reactivate its operations over a period of time, on condition that it receives sufficient funding to do so, the Company is in the process of considering possible retrenchment proceedings, in accordance with Section 189 and 189A of the Labour Relations Act (**the Act**).
- 1.9. The proposed retrenchments are in line with the Company's current operational requirements, having regard to its limited divisions that are operating.
- 1.10. It has become necessary to address this correspondence to you because we contemplate that, due to the operational requirements of the Company, we may need to restructure the business of the Company. In the event of this proceeding, your position may be affected and, consequently, it may become necessary to terminate your employment due to the structural and economical requirements of the Company.
- 1.11. This letter therefore sets out the applicable information and our proposals on the various relevant issues and is intended to form the basis of further consultation with you.
- 1.12. Please note that no final decisions have been made in relation to the matters set out in this letter and due consideration will be given to your input before any final decisions are taken.
- 1.13. In terms of the Act, employees are hereby invited to consult with the Company, on the issues set out herein below.

2. SECTION 189A FACILITATION

- 2.1. The proposed retrenchment proceedings will be regulated by Section 189A of the Act.
- 2.2. Employees are hereby informed of their rights in terms of Section 189A, which are:
 - 2.2.1. Facilitation consultation discussions are required in terms of section 189A of the Act if the employer employs more than 500 employees and is contemplating dismissing at least 50 employees;
 - 2.2.2. despite section 65(1)(c) of the Act, an employee may participate in a strike and an employer may lock out in accordance with the provisions of Section 189A;
 - 2.2.3. The employer or the consulting parties representing the majority of employees whom the employer contemplates dismissing may request the facilitation;
 - 2.2.4. A consulting party representing the majority of the employees whom the employer contemplates dismissing, may request facilitation in the event of the employer not requesting such facilitation.
 - 2.2.5. The request for facilitation must be made using the LRA 7.20 form and must be submitted to the CCMA within 15 days of the section 189(3) notice being issued by the employer;
 - 2.2.6. If facilitation is requested, a commissioner has 60 days, or any further extension period as agreed by the parties, from the date of the s189(3) notice to conclude the facilitation process;

- 2.2.7. The facilitation process serves to promote meaningful joint consensus-seeking consultation on measures, amongst others, to avoid the contemplated dismissals or to minimize the number of dismissals in the event of dismissals being unavoidable, to agree on the timing of the dismissals, to mitigate the adverse effects of the dismissals on those concerned, to ensure fairness in the method of selecting the employees to be dismissed, and on the severance packages for the dismissed employees;
- 2.2.8. If facilitation is requested and the 60 days, or any other extended period, has lapsed and no agreement is reached between the parties, the employer may give notice to terminate contracts of the affected employees in accordance with section 37(1) of the Basic Conditions of Employment Act. A registered trade union or the employees who received the notice of termination may give notice of a strike or refer a dispute concerning whether there is a fair reason for the dismissal to the Labour Court;
- 2.2.9. Section 189A does not prevent an agreement to appoint a facilitator in circumstances not contemplated in subsection (3) of Section 189A.
- 2.2.10. If a facilitator is not appointed a party may not refer a dispute to a council or the Commission unless a period of 30 days has lapsed from the date on which notice was given in terms of section 189(3); and once the periods mentioned in section 64(1)(a) of the Act have elapsed, if applicable, the employer may give notice to terminate the contracts of employment in accordance with section 37(1) of the Basic Conditions of Employment Act.

- 2.2.11. A consulting party may not —
 - 2.2.11.1. give notice of a strike in terms of this section in respect of a dismissal, if it has referred a dispute concerning whether there is a fair reason for that dismissal to the Labour Court;
 - 2.2.11.2. refer a dispute about whether there is a fair reason for a dismissal to the Labour Court, if it has given notice of a strike in terms of Section 189A in respect of that dismissal.
- 2.2.12. If a trade union gives notice of a strike in terms of Section 189A —
 - 2.2.12.1. no member of that trade union, and no employee to whom a collective agreement concluded by that trade union dealing with consultation or facilitation in respect of dismissals by reason of the employers' operational requirements has been extended in terms of section 23(1)(d) of the Act, may refer a dispute concerning whether there is a fair reason for dismissal to the Labour Court;
 - 2.2.12.2. any referral to the Labour Court contemplated by the aforesaid subparagraph that has been made, is deemed to be withdrawn.
- 2.2.13. The following provisions of Chapter IV apply to any strike or lock-out in terms of this section —
 - 2.2.13.1. section 64(1) and (3)(a) to (d), except that —

- 2.2.13.1.1. section 64(1)(a) does not apply if a facilitator is appointed in terms of this section;
 - 2.2.13.1.2. an employer may only lock out in respect of a dispute in which a strike notice has been issued.
- 2.2.13.2. subsection (2)(a), section 65(1) and (3);
- 2.2.13.3. section 66 except that written notice of any proposed secondary strike must be given at least 14 days prior to the commencement of the strike; and
- 2.2.13.4. sections 67, 68, 69 and 76.
- 2.2.14. During the 14 day period referred to in subsection (11)(c), the director must, if requested by an employer who has received notice of any intended secondary strike, appoint a commissioner to attempt to resolve any dispute, between the employer and the party who gave the notice, through conciliation.
- 2.2.15. A request to appoint a commissioner or the appointment of a commissioner in terms of the aforesaid paragraph does not affect the right of employees to strike on the expiry of the 14 day period.
- 2.2.16. If an employer does not comply with a fair procedure, a consulting party may approach the Labour Court by way of an application for an order —
 - 2.2.16.1. compelling the employer to comply with a fair procedure;

- 2.2.16.2. interdicting or restraining the employer from dismissing an employee prior to complying with a fair procedure;
 - 2.2.16.3. directing the employer to reinstate an employee until it has complied with a fair procedure; and/or
 - 2.2.16.4. make an award of compensation, if an order in terms of paragraphs (a) to (c) is not appropriate.
- 2.2.17. Subject to this section, the Labour Court may make any appropriate order referred to in section 158(1)(a).
- 2.2.18. An award of compensation made to an employee in terms of subsection (14) of Section 189A must comply with section 194 of the Act.
- 2.2.19. The Labour Court may not make an order in respect of any matter concerning the disclosure of information in terms of section 189(4) that has been the subject of an arbitration award in terms of section 16 of the Act.
- 2.2.20. An application in terms of subsection (13) of Section 189A must be brought not later than 30 days after the employer has given notice to terminate the employee's services or, if notice is not given, the date on which the employees are dismissed.
- 2.2.21. The Labour Court may, on good cause shown condone a failure to comply with the time limit mentioned in the paragraph above.

- 2.2.22. The Labour Court may not adjudicate a dispute about the procedural fairness of a dismissal based on the employer's operational requirements in any dispute referred to it in terms of section 191(5)(b)(ii).

3. DATE AND TIME OF CONSULTATION

- 3.1. The Consultation between the Company and its employees/representatives will be held at the Company's Head Office situated in Olifantsfontein on 09 January at 10H00 a.m.
- 3.2. The meeting will be jointly chaired by Mr. Ernest Van Zyl and the BRP.

4. REASONS FOR THE PROPOSED DISMISSALS

- 4.1. The Company proposes retrenchments due to its current structural and economical requirements.
- 4.2. The Company is financially distressed as envisaged in Section 128 of the CA. The reasons for the Company's financial distress are set out more fully in the Plan. For the sake of brevity, employees are referred to Section 7 of the Plan in this regard.
- 4.3. The Company's business model, prior to the commencement of business rescue proceedings, was built around a fully integrated value chain, encompassing breeding, hatcheries, broiler farming, feed milling and the processing and packaging of both fresh and frozen chicken products.
- 4.4. At present, the Company's only operational divisions are its hatchery and breeder operations.

- 4.5. The Employees employed in the remaining positions, are not rendering services and are currently receiving a monthly stipend.
- 4.6. The Plan deals with the reactivation options available to the Company. A detailed explanation of the three possible options are set out more fully in the Plan.
- 4.7. The Company intends to rationalise its labour force, in line with its current operational requirements.
- 4.8. At present, the Company is unable to carry its current workforce, based on its limited operations.
- 4.9. In terms of the options available in terms of the Reactivation Phase, the Company could possibly restart its Sundra Abattoir, depending on the funding which it receives. Alternatively, the Company may implement the lean operations option or the structured wind-down depending on the available funding.
- 4.10. In the interim, the Company must align its labour force with its current operational requirements.
- 4.11. For these reasons, the Company proposes that retrenchment proceedings be implemented.

5. THE ALTERNATIVES THAT THE COMPANY CONSIDERED

- 5.1. The Company's management has attempted to find alternative solutions that will not lead to retrenchments.
- 5.2. Since the commencement of business rescue proceedings, the BRP and his Team has engaged Temporary Employer / Employee Relief Scheme (**TERS**) to provide

the Company with assistance in relation to its current operational framework and its proposed structure if the reactivation option is implemented.

- 5.3. The BRP and his Team have submitted the necessary application and all supporting documents, in line with the TERS requirements. There have been regular engagements and meetings that have taken place during the course of 2025.
- 5.4. The BRP awaits an outcome from TERS on whether the required support will be forthcoming.
- 5.5. The possible TERS assistance that the Company may receive will have a significant impact on the potential number of retrenchments that the Company may implement.
- 5.6. The BRP will continue to engage TERS as part of the consultation process of the Section 189 proceedings.
- 5.7. Employees are further invited to suggest alternative proposals to retrenchment.
- 5.8. The Company will entertain any alternatives proposed by employees at the consultation.

6. PROPOSED METHOD FOR SELECTING EMPLOYEES

- 6.1. The Company suggests that the employee's length of service with the Company, in conjunction with his/her skill and qualifications be used as a method of selecting employees for retrenchment.
- 6.2. The proposed retrenchments will be implemented across all the divisions of the Company and across all job categories within these divisions. As such, the

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Company proposes that both vertical and horizontal bumping be applied, where possible.

- 6.3. Employees are invited to suggest alternative selection criteria.

7. TIMING

- 7.1. The earliest date during which any retrenchment is likely to take effect will be determined in accordance with Section 37(1) of the Basic Conditions of Employment Act, in line with the requirements set out in Section 189A of the Act.
- 7.2. The Company will not terminate any employment within the ensuing 30-day period, unless employees agree thereto as part of a potential voluntary retrenchment agreement.

8. SEVERANCE PAY

- 8.1. The Company proposes the following retrenchment payout:
- 8.1.1. one week's remuneration for each completed year of service;
 - 8.1.2. payment of statutory notice pay;
 - 8.1.3. payment of all amounts due to employees pre-rescue, in accordance with Section 144(2) of the Act;
 - 8.1.4. payment of all amounts due to employees post-rescue, in accordance with Section 135 of the Act; and
 - 8.1.5. payment of accrued leave.



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- 8.2. An employee shall not be entitled to severance pay if he/she has:
- 8.2.1. accepted an offer of alternative employment within the Company;
 - 8.2.2. unreasonably rejected an offer of reasonable alternative employment with the Company.

9. ANY ASSISTANCE WHICH THE COMPANY IS ABLE TO OFFER EMPLOYEES

- 9.1. The Company will make every effort to provide the affected employees with the necessary assistance.
- 9.2. Employees are requested to suggest proposals they may have on any assistance which the Company should provide in order to lessen the impact of the retrenchment.
- 9.3. The Company hereby affords affected employees sufficient time to attend alternative employment interviews. Employees are required to provide the Company with sufficient notice before attending these interviews.
- 9.4. The Company will issue each employee with a Certificate of Service.
- 9.5. The Company will provide retrenched employees with their UIF documentation.

10. FUTURE RE-EMPLOYMENT

- 10.1. Should the Company, in future, require additional employees in a similar position to the one you are currently employed in, you will have preference should you wish to apply for such a position.



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11. NUMBER OF EMPLOYEES EMPLOYED BY THE EMPLOYER

11.1. The Company employs approximately 2,423 employees.

12. NUMBER OF EMPLOYEES AFFECTED

12.1. In the event that the Company does not receive the required funding for the reactivation option and does not receive TERS support, a total of approximately 2,064 employees may be affected. This is subject to change in line with the operational requirements

12.2. In the event that the Company restarts its first Abattoir (in line with the reactivation option) and obtains TERS relief, this will likely result in an immediate re-deployment of up to 914 employees within the ensuing 12 months, depending on the Company's operational requirements at the time.

13. NUMBER OF EMPLOYEES DISMISSED DURING THE PREVIOUS 12 MONTHS

13.1. The Company has not dismissed employees for operational reasons during the previous 12 months.

Tebogo Maoto

Senior Business Rescue Practitioner