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Companies and Intellectual Property Commission
Republic of South Africa

Form CoR 123.1

About this Form

- This form is issued in terms of section 129 and 131 of the Companies Act, 2008, and Regulation 123 of the Companies Regulations, 2011.
- A company resolution to commence business rescue proceedings has no force or effect until it has been filed with this notice.
- This notice must be published in every affected person within 5 business days after -
 - (a) it has been filed, in the case of a resolution; or
 - (b) The date of the court order, in such a case.
- If this Notice is issued following a board resolution -
 - (a) The company must appoint a business rescue practitioner with 5 business days after filing this notice, and
 - (b) Any affected person may apply to a court in terms of section 130 for an order setting aside the resolution.
- The fee for filing this notice is R0.

Contacting the Commission

The Companies and Intellectual Property Commission of South Africa

Postal Address
PO Box 429
Pretoria
0001
Republic of South Africa
Tel: 088 100 2472

www.cipc.co.za

Notice of Beginning of Business Rescue Proceedings

Date: 15 | 12 | 2017

Customer Code: BCWMLT

Concerning

(Name and Registration Number of Company)

Name: NMC CIVILS PROPRIETARY LIMITED

Registration No: 1997 | 019604 | 07

The above named company advises that business rescue proceedings have commenced in terms of Chapter 6 of the Companies Act, as a result of:

The Board of the company having adopted the attached resolution in terms section 129, on 13 | 12 | 2017 & 14 | 12 | 2017

A Court having made the attached order in terms of section 131, on _____

In terms of section 132 (1)(a), the company's business rescue proceedings commenced on 15 | 12 | 2017, being the date on which:

This notice was filed with the Commission.

The court issued the attached order.

(Only in the case of a company resolution)

In support of this Notice, the company's Board of Directors has adopted the relevant facts upon which the resolution was adopted by a director representing the Board.

KOMMISIESE VIR DIE ANSKARRE VAN INTELLEKTUELE EIENDOM	
ONDERNEMINGSRESDING	
2017 -12- 15	No: 04
BUSINESS RESCUE	
COMPANIES AND INTELLECTUAL PROPERTY COMMISSION	

Name and Title of person signing on behalf of the Company:

ANDRÉ JACBUS VLOK - GROUP CFO

Authorised Signature:

"AVI"

Round-robin resolution of the board of directors of
NMC Civils Proprietary Limited
Registration number: 1997/019604/07
("the Company")

BE PLEASED TO TAKE NOTICE that the board of directors of the Company ("the Board") has adopted the resolutions set out hereunder - being resolutions in respect of decisions that could be voted on at a meeting of the Board - by written consent of a majority of the directors given in person or by electronic communication as contemplated in section 74(1) of the Companies Act 71 of 2008 ("the Act").

WHEREAS:

- A. The Board has reasonable grounds to believe that:
- a. the Company is financially distressed within the meaning of section 128(1)(f) of the Act in that it appears to be:
 - i. reasonably unlikely that the Company will be able to pay all of its debts as and when they become due and payable within the immediately ensuing six months; and / or
 - ii. reasonably likely that the Company will become insolvent within the immediately ensuing six months; and
 - b. there appears to be a reasonable prospect of rescuing the Company as contemplated by sections 128(1)(h) and 128(1)(b) of the Act.

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[Handwritten signatures]

RESOLVED:

1. THAT, as contemplated in section 129 of the Act, the Board has reasonable grounds to believe that:
 - 1.1 the Company is financially distressed within the meaning of section 128(1)(f) of the Act in that it appears to be:
 - 1.1.1 reasonably unlikely that the Company will be able to pay all of its debts as and when they become due and payable within the immediately ensuing six months; or
 - 1.1.2 reasonably likely that the Company will become insolvent within the immediately ensuing six months; and
 - 1.2 there appears to be a reasonable prospect of rescuing the company as contemplated by sections 128(1)(h) and 128(1)(b) of the Act.
2. THAT the Company voluntarily begin business rescue proceedings and that the Company be placed under supervision in terms of section 129(1) of the Act;
3. THAT the Company forthwith lodge with the Companies and Intellectual Property Commission ("the CIPC"):
 - 3.1 notice that the Company is beginning business rescue proceedings;
 - 3.2 all other documents and forms required to be lodged by the Company in terms of the CIPC's Practice Note 3 of 2014.
4. THAT one or more of the following practitioners be and are hereby appointed, subject to their written acceptance, as the business rescue practitioner/s of the Company in terms of section 129(3)(b) of the Act:
 - 4.1 Stephen Uijsses Smyth;
 - 4.2 Alison Marry Timme;
 - 4.3 Fenwick Neil Miller;

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[Handwritten signatures and initials]

4.4 Justine Hoppe; and/or

4.5 Byron Norman Chevalier.



5. THAT:

5.1 Andre Vlok, in his capacity as a director of NMC Proprietary Limited ("NMC"), the holding company of the Company and the chief financial officer of NMC and the group that comprises NMC and the Company; and/or

5.2 Shaun Webber, in his capacity as a director of NMC and its chief executive officer,

be and are hereby authorised on behalf of the Company to do all things necessary, to procure the doing of all things necessary, and to sign any and all documents necessary, or procure the signing of any and all documents, as is necessary for the Company to begin business rescue proceedings and be placed under supervision and to give effect to this resolution (and insofar as any of the foregoing prior to the passing of this resolution, such action be and is hereby ratified and approved).

6. THAT these resolutions may be signed in any number of counterparts, and any director may sign any such counterpart to give effect to the abovementioned resolutions.

DIRECTOR	SIGNATURE	DATE
Milase Lasase Mzamo		__ December 2017
Jacobus Gideon Lombard		14 December 2017
Charles Albert Adonis		13 December 2017

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In re:

NMC CIVILS PROPRIETARY LIMITED

AFFIDAVIT IN TERMS OF SECTION 129(3)(a) OF THE COMPANIES ACT 71 OF 2008
IN RESPECT OF THE BUSINESS RESCUE PROCEEDINGS OF
NMC CIVILS PROPRIETARY LIMITED

I, the undersigned

ANDRE JACOBUS VLOK

do hereby state as follows:-

1. I am an adult male and a director of NMC Proprietary Limited ("NMC"), the holding company of NMC Civils Proprietary Limited, registration number 1997/019604/07 ("NMC Civils").

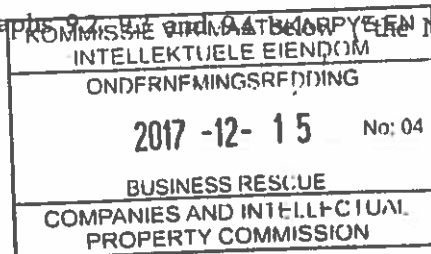
2. My identity number is 6010275080086.

3. I am the chief financial officer of NMC and occupy that same position in relation to NMC Civils.

4. The physical address where most of NMC Civils's business activities in the current financial year were undertaken is 1 Link Close, Montague Gardens, Cape Town, Western Cape, 7441.



5. The facts which I set out herein are within my personal knowledge (unless the context otherwise indicates) and are true and correct.
6. I am duly authorised to depose to this affidavit in terms of a resolution passed by the board of directors of NMC Civils ("the Board") dated 14 December 2017, a copy of which is annexed as "AV1". In terms of the resolution, passed as contemplated in section 129 of the Companies Act 71 of 2008 ("the 2008 Act"), the Board resolved to begin business rescue proceedings in respect of NMC.
7. I make this sworn statement with a view to providing information relevant to the proposed business rescue proceedings and in support of the contention that NMC Civils is in financial distress as contemplated by the provisions of section 128(1)(f) of the 2008 Act.
8. Before I deal with the financial position of NMC Civils, it would be useful for me to provide some background regarding NMC and the group of companies that are related to NMC and which are listed in paragraphs 9.1 to 9.2.2 below ("the NMC Companies").
9. **NMC and the structure of the group**
- 9.1 NMC conducts business in the building industry. The other NMC Companies are involved in the civils business or in the plant-hire business.
- 9.2 NMC holds 100% (one hundred percent) of the issued shares in:
- 9.2.1 NMC Civils;
- 9.2.2 NMC (North) Proprietary Limited, registration number 2004/027055/07 ("NMC North");



9.2.3 BH Plant Hire Proprietary Limited, registration number 1994/009095/07 ("BH Plant").

9.3 NMC holds 43% (forty-three percent) of the issued shares in Mokwena Surfacing Proprietary Limited, registration number 2002/013620/07 ("Mokwena").

9.4 NMC is related to NMC Property Holding Proprietary Limited, registration number 2000/007687/07 ("NMC Property") in that their shareholders are identical.

10. The relationships between the NMC Companies

10.1 Before I deal with the present financial difficulties of the NMC Companies, I need to explain why their circumstances are linked. This also explains why I am deposing to this affidavit along with similar affidavits in support of resolutions to commence business rescue proceedings in respect of the other five the NMC Companies - namely NMC North, NMC, NMC Property, BH Plant and Mokwena.

10.2 The NMC Companies are exposed to, or are dependent on, one another for two main reasons:



10.2.1 First, there are a number of inter-group loans in place. For example:

10.2.1.1 NMC Civils owes a total of R102,950,305.89 to intra-group creditors;

10.2.1.2 NMC North owes a total of R36,456,066.66 to intra-group creditors;

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- 10.2.1.3 BH Plant owes a total of R4,132,127.45 to intra-group creditors; and
- 10.2.1.4 Mokwena owes a total of R2,496,302.61 to intra-group creditors.
- 10.2.2 Second, there are a number of cross-company guarantees in place between the NMC Companies:
- 10.2.2.1 NMC's obligations under its facilities with ABSA Bank Limited ("ABSA") are secured by a limited guarantee in the sum of R40,000,000 given jointly by NMC Property, NMC Civils, BH Plant and NMC North.
- 10.2.2.2 NMC Civils, NMC North and Mokwena have various facilities with Standard Bank Limited ("SB"). The obligations of each of the three companies to SB are secured by unlimited suretyships given by NMC Civils, NMC North and NMC.
- 10.2.2.3 The obligations of NMC Civils to SB are also secured by an unlimited suretyship given by BH Plant.
- 10.2.2.4 There are a number of other security instruments in place (including cross-suretyships and cessions of loan accounts) between inter alia NMC North, NMC, BH Plant and Mokwena.
- 10.2.2.5 NMC has secured a construction guarantee facility with Infinity Insurance Company Limited, which entails that reciprocal counter-indemnities have been provided by the other NMC Companies.



10.3 It is for these reasons that I take a globular approach in referring to the financial position of each of the NMC Companies - notwithstanding that the business rescue proceedings in respect of each of the NMC Companies will naturally be separate and distinct.

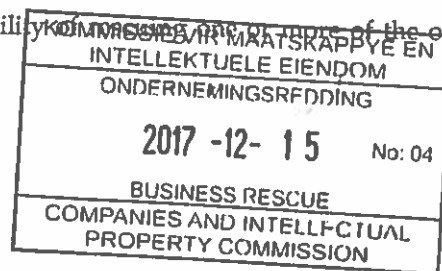
11. Present financial distress of NMC Companies

11.1 It appears that the NMC Companies are reasonably unlikely to be in a position to pay all of their current debts as they become due and payable within the immediately ensuing six months. I am advised that this is as contemplated by the provisions of section 128(1)(f)(i) of the 2008 Act.

11.2 The onset of this distress is evinced in the fact that certain NMC Companies - in particular NMC Civils, NMC North and NMC - have received, in the past weeks, dozens of letters of demand threatening legal proceedings. Most of these creditors are threatening to bring winding-up applications in terms of section 345 of the Companies Act 61 of 1973 ("the 1973 Act"). Given the volume of the demands, it is quite reasonable to expect that any one of these creditors may imminently launch liquidation proceedings. Any proceedings brought against any one of the NMC Companies is likely to risk a contagion that will drastically reduce the possibility of success for any of the other NMC Companies.

12. Background to financial distress

12.1 Although the NMC Companies have on the whole experienced strong turnover and sustainable trading in the past financial year, they have also experienced cash-flow difficulties and margin pressure. These originated *inter alia* in the failure of certain significant clients to pay sums due and owing upon during the project process. In particular, NMC North executed projects for the



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Department of Water and Sanitation ("DOWS") in the eastern Free State but was paid up to six months late, as a result of which the projects stalled and turnover was compromised. Moreover, some projects that were awarded to NMC Companies failed to commence; in particular, a number projects in the renewal energy sector were placed on hold.

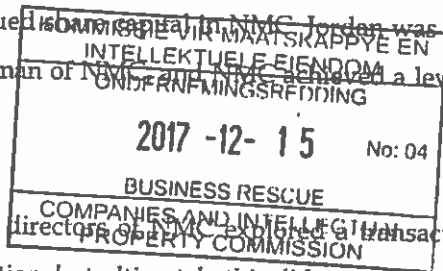
12.2 The result has been that the NMC Companies have had to enter into payment plans with creditors.

12.3 The NMC Companies have come to rely on overdraft facilities with SB and ABSA. In order to resolve its cash-flow difficulties the NMC Companies sought to restructure and refinance the SB facility by negotiating a new arrangement with SB in or about September 2017. Notwithstanding that SB gave NMC every indication that the new facility would be approved, at effectively the eleventh hour the application was declined.

12.4 NMC also engaged the advice of independent external consultants to advise on a potential restructuring or recapitalisation of the NMC Companies.

12.5 NMC also sought to recapitalise the NMC Companies by increasing the black economic empowerment ("BEE") shareholding in NMC from 28% to 64%, the intention being to make the NMC Companies a more attractive proposition for an investor. A fresh issue of shares to NMC Group Holdings Proprietary Limited, a company controlled by Phila Jordan ("Jordan"), resulted in the BEE shareholder holding 51% of the issued share capital in NMC. Jordan was also then appointed the executive chairman of NMC, and NMC achieved a level 2 BEE contributor.

12.6 Following the BEE transaction, the directors of NMC explored a transaction with the Public Investment Corporation, but ultimately this did not bear fruit.



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- 12.7 However, the Industrial Development Corporation (“IDC”) was then introduced to NMC as a potential investor. In the past few months NMC has been engaged in time-consuming and sustained negotiations with the IDC in order to finalise a transaction in terms of which the IDC was to advance funding of approximately R250-million to NMC. In the course of that process, NMC provided detailed information to the IDC and made a comprehensive disclosure of the affairs of the NMC Companies. NMC had at all times had a positive indication from the IDC that the transaction was being viewed favourably and that it would be finally approved on or about 11 December 2017, whereafter the funding would flow to NMC. While the precise date on which IDC would make the funding available was not known, at no time was there any reason to believe that the funding would not materialise.
- 12.8 However, on 12 December 2017 I attended a meeting at the IDC offices in Pretoria along with Shaun Webber (“Webber”), the managing director of NMC, and Phila Jordan (“Jordan”), the executive chairman and the representative of NMC’s BEE shareholder. There were 10 IDC representatives present. We had understood that the purpose of meeting was to finalise the terms of the funding; we were therefore utterly astounded and blindsided when it was conveyed to us that the word from the IDC’s credit committee was: “The answer is no.” Although NMC’s representatives sought to understand the reasons for the sudden reversal, the answer remained the same.
- 12.9 Immediately thereafter, also on 12 December 2017, I contacted the NMC’s attorney of record, Peter Whelan of Bowmans, with the news that the IDC funding appeared to have fallen through. Webber and I set up an urgent consultation with him on 13 December 2017, followed by meetings with senior management and available directors of the NMC Companies. Round-robin resolutions in respect of each of the NMC Companies were thereafter drafted and immediately circulated for signature.



- 12.10 In the meantime, and also on 13 December 2017, Jordan had a follow-up meeting with the IDC. Although there were some signals that the IDC was reconsidering its position and was prepared to proceed with the transaction on different terms, it appeared that the IDC funding would, on any basis, not materialise soon enough – meaning that the NMC Companies would need to commence business rescue proceedings regardless of the outcome of that engagement.

13. Major creditors and current liabilities of NMC Civils

As at the date hereof:

- 13.1 NMC Civils's overdraft facility at SB stands at - R19,466,974.
- 13.2 The total sum owing by NMC Civils to its creditors is R168,840,915.37.

14. Legal proceedings

- 14.1 NMC Civils is a party to the following legal proceedings instituted in the courts of the Republic of South Africa.

14.1.1 In the High Court of South Africa (Western Cape High Court)

KOMMISSIE VIR MAATSKAPPYE EN INTELLEKTUELE EIENDOM ONDRUFMINGSREDDING	Case number:	21848/17
	Plaintiff:	Joshua Andre van Niekerk N.O. and Elizabeth Maria van Niekerk N.O. and Riaan Andre Kruger N.O
2017 -12- 15	No: 04	
BUSINESS RESCUE	Defendant:	NMC Civils
COMPANIES AND INTELLECTUAL PROPERTY COMMISSION	Quantum:	Payment of R918 696.93 plus interest

- 14.1.2 In the High Court of South Africa (Western Cape High Court)
- Case number: 21847/17

Plaintiff: Masshure Kalahari Proprietary Limited
 Defendant: NMC Civils and NMC North
 Claim: Payment of R545 992.64 from NMC Civils
 Payment of R2 321 922.35 from NMC
 North

14.2 NMC Civils is also party to a number of routine proceedings before dispute-resolution bodies in the construction industry. It is not possible to deal with all of those in this affidavit, but the details will be collated in due course.

15. Conclusion

15.1 In the premises, it will be appropriate for NMC Civils to be placed under business rescue for the following reasons:

15.1.1 There is a real prospect that one or more creditors of NMC Civils may launch proceedings for the winding-up of NMC Civils. This would not be in the interests of NMC Civils, its employees or its creditors.

15.1.2 In that regard, the protection and retention of the jobs of the approximately 1 280 employees of the NMC Companies is of critical importance to the directors and senior management of the NMC Companies and has been the focus of their efforts in the abovementioned endeavours.

15.1.3 It is important to note that the NMC Companies are currently engaged in a number of large construction and civils projects throughout the country. They have entered into contracts not only with their clients but with numerous sub-contractors and suppliers in relation to those contracts. Each of the businesses operated by the NMC Companies is functioning as a going concern and has every prospect of continuing as

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such.

- 15.1.4 The contemplated business rescue proceedings will afford the NMC Companies a moratorium against actions by creditors, whilst the affairs of the NMC Companies may be restructured in terms of a comprehensive business rescue plan, with a view to maximising the likelihood of:
- 15.1.4.1 the NMC Companies continuing in existence on a solvent basis and successfully executing existing contracts or those that are in the pipeline; or
- 15.1.4.2 a recapitalisation or restructuring of the obligations of the NMC Companies, which will enable the NMC Companies to continue as a going concern; or
- 15.1.4.3 a duly appointed business rescue practitioner finding a buyer for the shares in NMC Civils, or its assets, in so doing realising a better return for NMC Civils's creditors and shareholders than would result from their immediate liquidation.
- 15.2 From my assessment of its financial position, and given the facts to which I have referred, it appears that NMC Civils is reasonably unlikely to be in a position to pay all of its current debts as they become due and payable within the immediately ensuing six months. I am advised that this is as contemplated by the provisions of section 128(1)(f)(i) of the Act.
- 15.3 Given the facts which I have set out above, the directors of NMC Civils have accordingly resolved that NMC Civils should apply for business rescue proceedings in accordance with the provisions of section 129(1) of the Act.

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 ANDRE JACOBUS VLOK

I certify that the above-mentioned signature is the true signature of ANDRE JACOBUS VLOK and that he acknowledged to me that he knows and understands the contents of the foregoing affidavit which was signed and attested to at the under-mentioned address on this 14th day of December 2017 in accordance with the provisions of GN R1258 dated 21 July 1972 as amended by Regulation No. 1648 dated 19 August 1977, by GN R1428 of 11 July 1980 and by GN R774 of 23 April 1982.



 COMMISSIONER OF OATHS

FULL NAMES IN BLOCK LETTERS:

BUSINESS ADDRESS:

CAPACITY:

AREA:

ELNALENE CORNELIUS
 COMMISSIONER OF OATHS
 PRACTISING ATTORNEY R.S.A
 12TH FLOOR
 11 BUITENGRACHT STREET
 CAPE TOWN, 8001






1 Link Close, Montague Gardens
7441 Cape Town
PO Box 36617, Chempet
7442 South Africa

Facsimile +27 (0)21 551 2977
Telephone +27 (0)21 551 2640
www.nmc.co.za

15 DECEMBER 2017

Companies and Intellectual Property Commission
P. O. Box 429
Pretoria
0001

TO WHOM IT MAY CONCERN:

Dear Sirs,

SUBJECT: BUSINESS RESCUE APPLICATION – NMC CIVILS (PTY) LTD.

As part of the above process we hereby state the following:

Public Interest Score (PI Score) for the financial year ending 31 July 2017 of 1,103 calculated as follows:

Average Number of employees	455
Third Party Liability	193
Turnover	454
Beneficial Individual Interest	1
TOTAL	1,103

The Primary Businesses Activity during the above period was operating as a Civils Contractor.

We also confirm the nomination of the following Business Rescue Practitioners in terms of section 129 of the companies act, 2008, and hereby declare their independence:

STEPHEN ULYSESS SMYTH
FENWICK NEIL MILLER

Yours faithfully

DEON LOMBAARD
DIRECTOR



a member of the **NMC** Construction Group

setting the construction standard

NMC Civils (Pty) Ltd. REGISTRATION NO 1997/019604/07

Group Board: SI Chambers, WJ Du Plooy, FC Jordan (Executive Chairman), JG Lombard, MJ van Coller, AJ Vlok, DVIDA Wilson (Non Exec), SF Webber (ex-officio)
Directors: CA Adams, CJ Calman, RG Cox, A Fourie, JKP Joubert, FJ Huiswoudt, GF Robb, BB Simelane, RP van Rooyen, BB Wentenaar