

**“ANNEXURE C
TO
NOTICE OF MOTION”**

**“ANNEXURE X
TO
NOTICE OF MOTION”**

EVRAZ HIGHVELD STEEL AND VANADIUM LIMITED (In Business Rescue)

Registration No: 1960/001900/06

NOTICE OF COURT PROCEEDINGS AGAINST *INTER ALIA* EVRAZ HIGHVELD STEEL AND VANADIUM LIMITED (IN BUSINESS RESCUE) ("Highveld"), THE BUSINESS RESCUE PRACTITIONERS OF HIGHVELD ("the BRPs") AND AFFECTED PERSONS

1. The BRPs of Highveld have instituted court proceedings against Air Liquide (Pty) Limited ("Air Liquide") under case number 26911/2016 in the High Court of South Africa, Gauteng Local Division, Johannesburg in which they seek, *inter alia*, to cancel certain obligations imposed on Highveld in terms of a Supply Agreement entered into between Highveld and Air Liquide and declaratory relief pertaining to limitations on Air Liquide's damages claim against Highveld as a consequence of such cancellation.
2. Air Liquide opposes the relief, and intends to bring a counter-application against the BRPs, Highveld and affected persons for a declaration that, *inter alia*:
 - 2.1. Air Liquide is not bound by paragraph 24.2 of the Business Rescue Plan;
 - 2.2. Clause 20.12 of the Supply Agreement does not impose any limitation on Air Liquide's claim for damages against Highveld arising from a cancellation of Highveld's obligations under the Supply Agreement by the Court in terms of section 136(2)(b) of the Companies Act 71 of 2008;
 - 2.3. Air Liquide is entitled and the BRPs are obliged to accept a claim to the full extent of Air Liquide's duly mitigated damages, discounted to a present day value, in the Business Rescue Proceedings and any dispute regarding the quantification thereof is to be determined in accordance with the dispute resolution mechanism contained in paragraph 38 of the Business Rescue Plan; and

- 2.4. Air Liquide is entitled and the BRPs are directed to pay to Air Liquide the same proportionate dividend as will be paid to all other concurrent creditors in the Business Rescue Proceedings, calculated on the full amount of Air Liquide's damages claim;
- 2.5. Air Liquide is entitled to receive a supply of water according to its requirements from the Highveld Steel water pipeline and to have the waste water managed by Highveld Steel's waste water treatment facility, on reasonable commercial terms and to that end to be included in any agreement concluded by Highveld with any third party or parties concerning the ownership and continued operation of the pipeline and waste water treatment facility.
3. Applications have been launched by Air Liquide to join all affected persons to the court proceedings for purposes of its counter-claim and for substituted service.
4. A full copy of the papers in the main application, the counter-application and the applications to join affected persons and for substituted service are available on the website of Highveld, www.evrashighveld.co.za, and upon request from Van Hulsteyns Attorneys, the attorneys representing Air Liquide, who can be contacted as follows:

Van Hulsteyns Attorneys

Ref: Mr Andrew Legg / Mr Daniel Raath

Telephone: 011 523 5300

Email: andrew@vhlaw.co.za

daniel@vhlaw.co.za

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG**

CASE NO: 26911/2016

In the application of:

AIR LIQUIDE (PTY) LTD

Applicant

and

**EVRAZ HIGHVELD STEEL AND VANADIUM
LIMITED
(IN BUSINESS RESCUE)**

First Respondent

**THE CREDITORS OF THE FIRST RESPONDENT
LISTED IN ANNEXURE A TO THIS NOTICE OF
MOTION**

Second Respondents

**THE EMPLOYEES OF THE FIRST RESPONDENT
LISTED IN ANNEXURE B TO THIS NOTICE OF
MOTION**

Third Respondents

**NATIONAL UNION OF METALWORKERS OF
SOUTH AFRICA**

Fourth Respondent

SOLIDARITY

Fifth Respondent

**THE SHAREHOLDERS OF THE FIRST
RESPONDENT LISTED IN ANNEXURE C TO THIS
NOTICE OF MOTION**

Sixth Respondents

In the matter between:

PIERS MICHAEL MARSDEN N.O.

First Applicant

DANIEL TERBLANCHE N.O.

Second Applicant

and

AIR LIQUIDE (PTY) LTD

Respondent

*CRK
AM*

**FOUNDING AFFIDAVIT
(SUBSTITUTED SERVICE)**

I, the undersigned,

Amine Houssaim

do hereby make oath and say that:

1. I am the Director of Large Industries of Air Liquide (Pty) Limited ("**Air Liquide**"), the applicant in this application. The facts contained in this affidavit are, save where the contrary appears from the content, within my personal knowledge and are, to the best of my belief, true and correct.

The parties

2. The applicant is **Air Liquide**, a private company duly registered and incorporated in terms of the company laws of South Africa with its registered address at Corner Vereeniging and Andre Marais Streets, Alrode, Alberton.
3. The first respondent is **Evraz Highveld Steel and Vanadium Limited** ("**Highveld**"), a public company duly incorporated in terms of the company laws of South Africa and listed on the Johannesburg Stock Exchange ("**JSE**"). On 13 April 2015, the first respondent was placed into business rescue pursuant to the filing of a resolution in terms of section 129 of the Companies Act 71 of 2008 ("**the Act**") with the Companies and Intellectual Property Commission.

4. Following the filing of such resolution, the applicants in the main application under the above mentioned case number, Piers Michael Marsden and Daniel Terblanche, were appointed as Highveld's business rescue practitioners ("**the BRPs**").
5. The second respondents are the **creditors of Highveld**, listed in annexure A to the notice of motion.
6. The third respondents are the **current and previous employees of Highveld**, listed in annexure B to the notice of motion.
7. The fourth respondent is the **National Union of Metalworkers of South Africa**, a trade union duly registered in terms of section 96 of the Labour Relations Act, 66 of 1995, with principal office at NUMSA Head Office, 153 Lillian Ngoyi Street, corner Gerald Sekoto Street, Newtown, Johannesburg, 2001.
8. The fifth respondent is **Solidarity**, a trade union duly registered in terms of section 96 of the Labour Relations Act, with principal office at Solidarity Head Office, corner DF Malan and Eendracht Street, Kloofsig, 0157.
9. The sixth respondents are the **shareholders of Highveld**, listed in annexure C to the notice of motion.

Brief background

10. As set out in more detail below, Air Liquide has brought a counter-claim against the BRPs, who, as applicants in the main application under this case number, seek a number

of declarators regarding the business relationship between Air Liquide and Highveld. The creditors, employees and shareholders of Highveld which is in business rescue, have direct and substantial interests in the relief sought in the counter-application, as set out in more detail below.

11. I thus depose to this affidavit in support of an application for substituted service of the main application, counter-application and a joinder application, as set out in the notice of motion, on the creditors, employees and shareholders of Highveld.
12. On 13 October 2015 a business rescue plan was adopted in terms of section 152 of the Act ("**the Plan**"). The Plan contained three alternative proposals. The first two entailed a proposed scheme of arrangement and a proposed sale as a going concern, however both have failed. The BRPs have therefore proceeded to implement the third proposal, namely a wind down of Highveld and the payment of a dividend to creditors. These aspects are set out in more detail in the founding affidavit to the main application.
13. On 4 August 2016 the BRPs launched an application against Air Liquide ("**the main application**"), in which they seek, *inter alia*:

13.1 a declarator that the obligations of Highveld in terms of a written agreement between Highveld and Air Liquide concluded on 7 December 2011, and amended on 9 October 2012 ("**the Supply Agreement**"), are cancelled in terms of section 136(2)(b) of the Act, save for certain obligations relating to the supply of utilities in terms of the Supply Agreement;

- 13.2 a declarator that the BRPs' suspension of Highveld's obligations in the first instance to take from Air Liquide product and pay the minimum product purchase obligation regardless of whether or not Highveld actually receives or requires such product, and secondly, to pay the monthly fee in terms of the Supply Agreement, is, in terms of section 132(2)(a) of the Act, valid and effective from 2 October 2015 and 15 July 2016 respectively; and
- 13.3 to the extent that the declarators set out in 13.1 and 13.2 are granted, that any damages claim by Air Liquide will be a concurrent claim in the business rescue, will not constitute a cost of business rescue or post-commencement finance and is limited by the provisions of paragraph 24.2 of the Plan and clause 20.12 of the Supply Agreement.
14. Air Liquide opposes the main application. In addition, Air Liquide delivered a counter-application, with the written permission of the BRPs as required by section 133(1)(a) of the Act ("**counter-application**"), which was served on the applicants in the main application on 25 November 2016.
15. In its counter-application Air Liquide seeks, *inter alia*:
- 15.1 a declarator that the cancellation of the obligations of Highveld on the terms set out in paragraph 1 of the notice of motion in the main application amounts to a repudiatory breach of the Supply Agreement by Highveld;
- 15.2 a declarator that Air Liquide is not bound by paragraph 24.2 of the Plan;

- 15.3 a declarator that clause 20.12 of the Supply Agreement does not impose any limitation on Air Liquide's damages claim arising from the cancellation of Highveld's obligations under the Supply Agreement on the terms set out in paragraph 1 of the notice of motion in the main application; and
- 15.4 a declarator that Air Liquide is entitled to continue to receive a supply of water according to its requirements from the Highveld Steel water pipeline and to have its waste water managed by Highveld's waste water treatment facility, on reasonable commercial terms, with related relief.

The legal interest of the creditors, employees and shareholders

16. The Supply Agreement would continue for a further approximately 18 years if the BRPs had not sought and are not granted the order referred to in paragraph 13.1 above from which Air Liquide would have derived an income. As set out in detail in Air Liquide's answering affidavit to the main application, upon which it also relies as support for its counter-application, Air Liquide will suffer damages of approximately R1.35 billion as a result of the cancellation of the obligations under the Supply Agreement which the BRPs seek the cancellation of as set out in paragraph 13.1 of this affidavit.
17. The dispute, in respect of which the BRPs and Air Liquide are seeking opposing declaratory relief, pertains to whether or not Air Liquide's damages claim is limited, either by virtue of the provisions of paragraph 24.2 of the Plan, or in terms of clause 20.12 of the Supply Agreement. The limitations contended for by the BRPs will have

- the effect that Air Liquide's damages claim will be limited to an amount of approximately R43 million.
18. I have been advised that it is not necessary for purposes of this application to deal with the various contentions raised by the BRPs and Air Liquide respectively in this regard. Suffice it to say that, as advised by the BRPs, creditors are likely to receive 13 cents in the Rand as a dividend if the relief sought in the main application regarding the limitation of the damages claim is granted, and 8 cents in the Rand if the relief sought in the counter-application is granted. In such circumstances, Air Liquide, through the limitation of its damages claim, will be sponsoring the claims of other creditors which aggregate R2.35 billion, to the extent of approximately 5 cents in the Rand.
19. Air Liquide has therefore been advised that in these circumstances Highveld's creditors, employees and shareholders ("**the interested parties**") all have or may have a direct and substantial interest in the outcome of the counter-application.
20. It is respectfully submitted that the creditors of a company in business rescue have direct and substantial interests in the interpretation of a business rescue plan, particularly where a particular interpretation may have an impact upon the position of each creditor. Subject to what I have stated in Air Liquide's answering affidavit in the main application, section 152(4) of the Act provides that a business rescue plan is binding on all the creditors if approved. As set out above, the Plan provides for the winding down of Highveld. On the basis that Air Liquide's counter-application is granted in regard to paragraph 24.2 of the Plan, this will directly affect the dividend that becomes payable to each creditor.

21. The Act specifically acknowledges the rights of employees in business rescue proceedings. Apart from possible accrued claims against Highveld, further amounts are likely to become payable to employees, particularly in circumstances where they are to be or have been retrenched. A majority of Highveld's employees have already been retrenched, and, as in the case of the other creditors, the dividend that will become payable to them will be affected by the outcome of the main and counter-applications.
22. The shareholders of Highveld only have a residual right in respect of any possible residue remaining after the payment of claims. It is most unlikely that any residual amount will remain for distribution to shareholders after the payment of claims. However, *ex abundanti cautela*, Air Liquide also seeks to join the shareholders of Highveld to these proceedings.
23. It is also necessary for Air Liquide to join the creditors and current and ex-employees of Highveld to these proceedings under this case number.

The difficulties with service

24. The difficulty that Air Liquide is faced with, is that the parties to be joined are numerous, so that the process of effecting service upon each of them in the manner required by the Uniform Rules of this Honourable Court, is an almost impossible and certainly a prohibitively expensive and time consuming exercise. As can be seen from annexures A, B and C referred to above, there are some 614 creditors, 1764 current and retrenched employees, and several hundred shareholders. It is therefore not reasonably practicable to effect service in the ordinary course on all of these parties.

25. In order to resolve these difficulties, Air Liquide and the BRPs have co-operated with one another, as evidenced by the correspondence exchanged between Air Liquide's attorneys, Van Hulsteyns and the BRPs attorneys, ENSafrica dated 7 and 24 October 2016 and 23 and 24 November 2016 respectively, which is attached marked "SSA1" to "SSA4" (excluding annexures). Annexures A, B and C, and other information contained in this affidavit, have been obtained from the BRPs.
26. In order to properly understand the counter-application, it is necessary for any interested party to also have regard to the papers delivered in the main application, that is, the notice of motion and the founding affidavit and annexures thereto. The papers in the main application and counter-application are almost certain to run to more than 500 pages. In the circumstances it will be a prohibitively expensive and time-consuming task to serve copies of these papers on several thousand individuals and legal entities. It is furthermore extremely difficult, if not impossible, to ascertain the current residential, work or business addresses of these various entities and individuals within a reasonable period of time and even if it is possible to do so, this will certainly result in an undesirable delay in the determination of the main and counter-application.
27. In the circumstances, Air Liquide respectfully submits that it would be appropriate for this Honourable Court to exercise its discretion to allow for appropriate forms of substituted service.
28. The BRPs are utilising a website, www.evrazhighveld.co.za, as a platform to communicate details and to publish relevant documents concerning developments in the business rescue proceedings. It is respectfully submitted that a notice published on this

- platform can effectively be utilised to inform interested parties of the counter-application.
29. Annexure A, which has been obtained from the BRPs, in addition to identifying the various creditors, also provides the current email addresses of these creditors. The BRPs communicate with creditors by email and it is respectfully submitted that notification of the proceedings under this case number by way of emails addressed to the creditors will constitute effective service on them.
30. As is evident from annexure B, which has also been obtained from the BRPs, the majority of the erstwhile and current employees of Highveld are members of either the fourth or fifth respondents. The Act specifically acknowledges trade unions as representatives of employees in business rescue proceedings. In this regard I refer to sections 128(1)(a)(ii) and 144 of the Act. It is therefore respectfully submitted that service at the principal office of the trade unions, as stipulated in section 144, will constitute appropriate notice to the employees of the proceedings.
31. The remaining employees have provided the BRPs with their current email addresses, and it is respectfully submitted that service at these addresses would be effective notification.
32. Highveld's activities were all centred around a plant situated in the eMalahleni Municipal Area. Accordingly, it is respectfully submitted that publication of notice of the proceedings in a national English newspaper, the Star, as well as in a newspaper

widely available in the eMalahleni area, namely the Witbank News will constitute effective notice.

33. There are a limited number of employees still employed by Highveld. It is submitted that attaching a copy of this order and the papers under the abovementioned case number in the manner suggested in the notice of motion to an employees' notice board at the plant, shall further ensure that all employees are notified of these proceedings. Section 144(1) of the Act also acknowledges the appropriateness of such notification.
34. As mentioned earlier, Highveld is a listed company. The JSE, as a matter of course, communicates information to shareholders of listed companies by way of SENS (Stock Exchange News Service) announcements. The BRPs also add copies of all SENS announcements to a dedicated page on the website once they have been made. It is respectfully submitted that this will be an appropriate means of notifying all shareholders of these proceedings.
35. In addition, Computershare Limited, handles Highveld's company secretarial work. It is submitted that notification to shareholders by Computershare Limited, in the manner customarily employed by it will also ensure that they are properly notified of these proceedings.
36. I further point out that in separate litigation between the BRPs and Highveld on the one hand, and two creditors on the other, under case number 85549/2015 in this Honourable Court, a substantially similar order for substituted services was made, and found to be

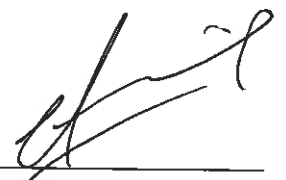
effective by the BRPs. I attach a copy of the draft order, which was made an order of court in that matter, obtained from the BRPs attorneys, as "SSA5".

37. A copy of this affidavit, prior to deposition thereto, was provided to the BRPs for their comment and they have confirmed that they are satisfied with it as appears from "SSA2".

38. Copies of the counter-application and the notice of motion in the joinder application (excluding annexures) are annexed marked "SSA6" and "SSA7". I attach a confirmatory affidavit deposed to by Mr Andrew Legg, a partner at Van Hulsteyns, Air Liquide's attorneys of record, as "SSA8".

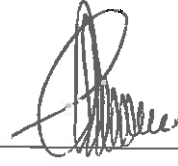
39. In the circumstances, I respectfully submit that it is appropriate that an order for substituted service on interested parties, as set out in the notice of motion to which this affidavit is attached, be granted.

Wherefore Air Liquide humbly prays for an order in terms of the notice of motion to which this affidavit is attached.



DEPONENT

I HEREBY CERTIFY THAT THE DEPONENT HAS ACKNOWLEDGED THAT HE KNOWS AND UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT, WHICH WAS SIGNED AND SWORN TO BEFORE ME, A COMMISSIONER OF OATHS, AT SANDTON ON THIS THE 09 TH DAY OF ~~JANUARY~~^{FEBRUARY} 2017, THE REGULATIONS CONTAINED IN GOVERNMENT NOTICE NO. R1258 OF 21 JULY 1972, AS AMENDED, AND GOVERNMENT NOTICE NO. R1648 OF 19 AUGUST 1977, AS AMENDED, HAVING BEEN COMPLIED WITH.



COMMISSIONER OF OATHS

GUGULETHU T. CHAUKE
Practising Attorney R.S.A.
Ex-Officio
Suite 19, Second Floor
Katherine & West, 114 West Street
Sandown, SANDTON
Tel: (011) 303 7900 / Fax: (011) 303 7999

“SSA1”



VAN HULSTEYNS

Attorneys • Notaries • Conveyancers

SINCE 1872

ENSAfrica
Attention: Gary Oertel / Letitia Field

By E-mail: goertel@ensafrika.com
lfield@ensafrika.com

07 October 2016

Your Reference: G Oertel/L Field
 Our Reference: Mr A Legg/MAT10034

Dear Sirs

RE: EVRAZ HIGHVELD STEEL AND VANADIUM LIMITED (IN BUSINESS RESCUE) / AIR LIQUIDE PROPRIETRAY LIMITED

1. We refer to the writer's telephone conversation with your Ms. Field last Friday, as well as to the e-mails received from you earlier this week in which you confirmed that you have now been furnished by your clients with the mailing lists in respect of the affected persons.
2. Kindly make available to us the updated list of all of the creditors and employees of Highveld Steel as requested in our letter dated 29 September 2016 ("our letter"), together with the requisite mailing details as well as the details of the shareholders of Highveld Steel and their mailing details.
3. During the writer's call with your Ms. Field we also mentioned to you that our client requires details of who the joint venture parties are as referred to at page 181 of the founding affidavit with reference to the July 2016 presentation to creditors, wherein reference is made to "... *an industry player and financial institution*" in the context of a "*venture to be established between Highveld, [such] industry player and ... financial institution*", as it is likely that such persons will also be affected by the relief that our client intends seeking in terms of its counter-application. Kindly disclose the identity of the "*industry player*" and "*financial institution*" (who our client believes to be ArcelorMittal South Africa Limited and the IDC) and also indicate what the precise structure of the proposed arrangement between such parties is, with particular reference to the identity of the party/ies which will own and operate the structural mill. This will determine who the entities are who are required to be joined in the counter-application.
4. In our letter, we informed you that our client intends joining the affected parties to the counter-application which our client proposes to bring.

Contact Details
 T +27 11 523 5300 • F +27 11 523 5326 • www.vhlaw.co.za

3rd Floor • Suite 25 • Katherine & West Building
 Corner Katherine & West Streets • Sandown • Sandton
 PO Box 783436 • Sandton • 2146

Vat No
 4680106780

Partners
 Chris Christos • Andrew Legg • Ivan Tshinangwe
 Barbara Seimenis • Shaviv Singh • Daniel Raath

Practising Consultants
 Arnold Cigler • Karel Jasper

Associate In association with
 Louise Swart Diane Hall

AA
 LWC



5. We enclose drafts of:
 - 5.1. A Notice of Counter-Application;
 - 5.2. A Notice of Motion (Joinder Application);
 - 5.3. A Notice of Motion (Application For Substituted Service); and
 - 5.4. Annexure "X" to the Application referred to in 5.3.
6. Kindly advise whether:
 - 6.1. any of the drafts should be amended or supplemented in any respect/s having regard to the relevant facts of which your clients are aware;
 - 6.2. whether or not your clients consent to the relief sought in the proceedings referred to in 5.2 and 5.3 above; and
 - 6.3. whether your clients are prepared to comply fully with the relief sought in Part A of the Notice of Counter-Application which will avoid the need for our client to seek such relief.
7. Kindly revert to us as a matter of urgency so as to avoid unnecessary delay in the prosecution of the pending application.
8. We look forward to hearing from you in the above respects.

Yours faithfully,

(Electronically transmitted without signature)
VAN HULSTEYNS

~~AA~~ a2c

“SSA2”

Circ
AA

ENSAfrica

150 West Street
 Sandown Sandton Johannesburg 2108
 P O Box 783347 Sandton South Africa 2146
 docec 162 Randburg
 tel +2711 269 7800 fax +2711 269 7898
 info@ENSAfrica.com ENSAfrica.com

Van Hulsteyns Attorneys
 By email: andrew@vhlaw.co.za
Daniel@vhlaw.co.za

G Oertel / L Field our ref
 A Legg/Mat10034 your ref

24 October 2016 date

Dear Sirs

**RE: EVRAZ HIGHVELD STEEL AND VANADIUM LIMITED (IN BUSINESS RESCUE) ("EVRAZ") /
 AIR LIQUIDE (PTY) LIMITED**

1. We refer to your letter of 7 October 2016.

Ad paragraph 2 of your letter:

2. We attach the following:

2.1. List of creditors with corresponding email addresses. Please note that where there is no email address, the contact number is provided.

2.2. List of former employees with corresponding contact numbers and indication of the trade union involved, if any. Please note that although the employment contracts have been terminated, payment is still due to the former employees.

3. In regard to shareholders, our clients communicate to shareholders via SENS announcements and through Evaz's transfer secretary, Computershare. The list of shareholders is held by Computershare. Should your client require the list, your client will be required to make payment to Computershare for the release of same. We will forward the quotation from Computershare.

Ad paragraph 3 of your letter:

4. We refer to our email of earlier today and await your client's availability to have a telecon to discuss the issue regarding the pipeline.

law | tax | forensics | IP

Edward Nathan Sonnenbergs Incorporated registration number 2006/018200/21

M M Katz (chairman) P C Faber (chief executive) M Mgudiwa (deputy chief executive)

A list of directors is available on our web site <https://www.ensafrika.com/en/thead>
 level 2 BBBEE rating

are
 AA

Ad sub-paragraphs 6.1 and 6.2 of your letter:

5. We record that:
 - 5.1. Industrial Development Corporation of South Africa Limited is a creditor and would accordingly form part of the third respondents; and
 - 5.2. the citation of Arcelormittal South Africa Limited is a misjoinder.
6. In regard to the application for substituted service:
 - 6.1. We note that you have only sought leave in respect of the joinder application and have not included leave in respect of the counter-application.
 - 6.2. We further note that the notice of motion erroneously makes reference to the "*main application*" as opposed to the joinder application and/or counter-application.
 - 6.3. Prayer 3 should include publication of a SENS announcement and transmission of the notice through Computershare.
 - 6.4. Paragraph 1 of annexure X should read "*to cancel certain obligations imposed on Highveld in terms of a Supply Agreement...*".
7. Provided the aforesaid amendments are made, our clients will not oppose the joinder application and application for substituted service.

Ad sub-paragraph 6.3 of your letter:

8. In regard to the relief sought in prayer 1 of Part A of the notice of counter-application, our clients consent to your client instituting the counter-application.
9. In regard to the relief sought in prayer 2 of Part A of the notice of counter-application:
 - 9.1. We attach a schedule reflecting the following:
 - 9.1.1. the creditors of Evraz;
 - 9.1.2. the claims submitted against Evraz; and
 - 9.1.3. whether the respective claims have been admitted or are still in the process of being reconciled.
 - 9.2. In regard to the concurrent creditors whose pre-business rescue contracts have either been cancelled by:
 - 9.2.1. Agreement or in terms of the provisions of the respective agreements:

cerc
AH

9.2.1.1. as you are aware, the agreement concluded with African Oxygen Limited prior to the commencement of business rescue was consensually cancelled. There was no damages claim;

9.2.1.2. certain agreements were cancelled by exercising the termination notices provided for in the respective agreements. By exercising the notice, our clients were able to avoid a damages claim; and

9.2.1.3. others agreements terminated by effluxion of time and were not renewed.

9.2.2. Application:

9.2.2.1. Other than the application against your client, no cancellation order has been sought.

10. Please confirm receipt of this letter with the attachments referred to herein.

Yours faithfully

EDWARD NATHAN SONNENBERGS INC.

Per:


LETITIA FIELD

Q2C
AA

“SSA3”

CE 7C
~~AA~~

Andrew Legg

From: Andrew Legg
Sent: 23 November 2016 16:12
To: 'Letitia Field'
Cc: Gary Oertel; Daniel Raath
Subject: RE: EVRAZ HIGHVELD (IN BUSINESS RESCUE) / AIR LIQUIDE
Attachments: Annexure B.xlsx; Annexure A.xlsx

Dear Laetitia,

We are in the process of finalising our client's Answering Affidavit which we hope to serve before the end of the week together with our client's notice of counter-application.

For purposes of doing so, we request you to confirm that the annexures attached in relation to the creditors of Highveld Steel and the employees thereof, correctly reflects all creditors as well as all employees, whether past or present who have an interest in the counter-relief to be sought.

Annexure A attached, represents a list of all of the creditors of Highveld, as furnished to us by you under cover of your letter dated 24 October 2016. Please let us know should your client have received any additional claims from creditors whose details should be added to this list.

Annexure B relates to the employees of Highveld. This spreadsheet was also made available to us under cover of your letter of 24 October 2016. We do not however appear to have been furnished with a list of who the current employees of Highveld Steel are (to the extent that they have any interest in the matter), Annexure B relating to the former employees of Highveld.

Please would you let us know whether the list of employees concerned needs to be updated to reflect any of the current employees of Highveld Steel.

We look forward to hearing from you.

Kind Regards,

 **Andrew Legg**
Partner
Van Hulsteyns Attorneys
(Proudly a Level 2 BBBEE Contributor)

One Hundred and Forty Two Years of Excellence in Legal Practice

Telephone	Address
+27 11 523 5300	3 rd Floor • Katherine & West Building • Corner Katherine & West Streets • Sandown • Sandton
Facsimile	Website
+27 11 523 5326	www.vhlaw.co.za

This message contains information intended solely for the addressee, which is confidential or private in nature and subject to legal privilege. If you are not the intended recipient, please delete and do not distribute or copy this message or any file attached to this message. Please notify the sender immediately by e-mail, facsimile or telephone. Furthermore, the information contained in this message, and any attachments thereto, are for information purposes only and may contain the personal views and opinions of the author, which are not necessarily the views and opinions of Van Hulsteyns who do not accept liability for any claims, loss or damages of whatsoever nature, arising as a result of the reliance on such information by anyone. Whilst all reasonable steps are taken to ensure the accuracy and integrity of information transmitted electronically and to preserve the confidentiality thereof, Van Hulsteyns accepts no liability or responsibility whatsoever if information or data is, for whatsoever reason, incorrect, corrupted, or does not reach its intended destination.

Car
AA

“SSA4”

circ

AA

From: Letitia Field [mailto:lfield@ensafrica.com]
Sent: 24 November 2016 13:56
To: Andrew Legg <andrew@vhlaw.co.za>
Cc: Gary Oertel <goertel@ensafrica.com>; Daniel Raath <Daniel@vhlaw.co.za>
Subject: RE: EVRAZ HIGHVELD (IN BUSINESS RESCUE) / AIR LIQUIDE

Dear Andrew

We confirm that the annexures correctly reflect the creditors and former employees.

In regard to the employees, all employment contracts were terminated. Currently, there are only limited duration contracts.

Regards



Letitia Field
senior associate
insolvency, business rescue and debt recovery
tel: +27 21 410 2500
cell: +27 82 787 9504
email: lfield@ENSAfrica.com
offices: [ENSAfrica locations](#)



level 2 BBBCC rating
Edward Nathan Sonnenbergs Incorporated (registration number 2006/018200/21)

This email contains confidential information. It may also be legally privileged. Interception of this email is prohibited. The information contained in this email is only for the use of the intended recipient. If you are not the intended recipient, any disclosure, copying and/or distribution of the content of this email, or the taking of any action in reliance thereon, or pursuant thereto, is strictly prohibited. Should you have received this email in error, please notify us immediately by return email. ENSAfrica (ENS and its affiliates) shall not be liable if any variation is effected to any document or correspondence emailed unless that variation has been approved in writing by the attorney dealing with the matter.

AA
LCC

“SSA5”

wrc
AA