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TO: Affected Persons

FROM: The Joint Business Rescue Practitioners of Group Five Construction Proprietary Limited (in business rescue)

23 April 2019

Dear Affected Persons,

GROUP FIVE CONSTRUCTION PROPRIETARY LIMITED (IN BUSINESS RESCUE) ("THE COMPANY")
RE: RETENTIONS

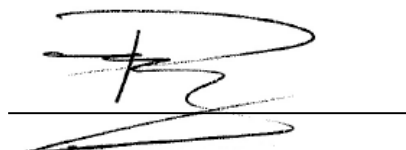
- 1 The joint business rescue practitioners, Messrs Lake and van den Steen ("the BRPs"), undertook at the meetings held in Johannesburg, Durban and Cape Town to revert to sub-contractors in writing on how their claims for repayment of retentions will be treated in a business rescue.
- 2 The BRPs have taken legal advice on this very issue, and which is set out below:
 - 2.1 Selected and domestic sub-contractors were historically given the options to either give a guarantee or agree to a retention of amounts due, as security for due performance in terms of their relevant contracts.
 - 2.2 With respect to retentions, the appellate division held, in the case of First National Bank of SA Ltd v Lynn NO and others [1996] 1 All SA 229 (A), that retentions become due and owing when the sub-contractor performs under a contract, even if it only becomes payable by the contractor to the sub-contractor at a later stage.
 - 2.3 Accordingly, in business rescue, a sub-contractor's claim against the Company for the payment of retentions for the work done prior to the Company entering into business rescue (i.e. prior to 11 March 2019) will accordingly constitute a claim that will be dealt with in accordance with the plan.
 - 2.4 However, where retentions are withheld on payment certificates for work done post the commencement of the business rescue proceedings (i.e. after 11 March 2019) in respect of viable projects that are / will be funded, those retentions will be repaid in terms of the relevant contracts.
- 3 Please therefore liaise with the Group Five representative responsible for the project in which your services are being engaged, in order to understand if your project will be funded going forward and to understand your position with respect to your retention claims.
- 4 We trust that you find this note of assistance.

Yours faithfully,



Dave Lake

AS THE JOINT BUSINESS RESCUE PRACTITIONERS FOR GROUP FIVE CONSTRUCTION (PTY) LTD



Peter van den Steen

Group Five Construction (Pty) Ltd
Reg No 1974/003166/07

Directors: TC Kgogo AJ Clacher NM Humphreys KR Maharaj JN Nzimande