



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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General Notices

NAMIBIAN COMPETITION COMMISSION

No. 239

2023

NOTICE OF DETERMINATION MADE BY THE COMMISSION
IN RELATION TO THE PROPOSED MERGER:
NIMBLE CREDIT FUND 1 (PROPRIETARY) LIMITED //
MCG INDUSTRIES (PROPRIETARY) LIMITED

Competition Act, 2003 (Act No. 2 of 2003)
(Section 47(7), Rule 30)

CASE NO.: 2022FEB0003MER

1. The Commission has received notification of the abovementioned proposed merger on **10 February 2023**.
2. Please note that the Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on the grounds that the proposed merger is not likely to prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.
4. Note that the Commission has the authority, in terms of section 48(1) of the Act, to revoke a decision approving the implementation of a proposed merger if -
 - (a) *the decision was based on materially incorrect or misleading information for which a party to the merger is responsible; or*
 - (b) *any condition attached to the approval of the merger that is material to the implementation is not complied with.*

L. //GAROEB
CHAIRPERSON
NAMIBIAN COMPETITION COMMISSION

NAMIBIAN COMPETITION COMMISSION

No. 240

2023

NOTICE OF DETERMINATION MADE BY THE COMMISSION
IN RELATION TO THE PROPOSED MERGER:
WILHELM SHALI // OSR PROPERTIES CC //
CORK INVESTMENTS CC

Competition Act, 2003 (Act No. 2 of 2003)
(Section 47(7), Rule 30)

CASE NO.: 2023FEB004MER

1. The Commission has received notification of the abovementioned proposed merger on **10 February 2023**.
2. Please note that the Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on the grounds that the proposed merger is not likely to prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.
4. Note that the Commission has the authority, in terms of section 48(1) of the Act, to revoke a decision approving the implementation of a proposed merger if -
 - (a) *the decision was based on materially incorrect or misleading information for which a party to the merger is responsible; or*
 - (b) *any condition attached to the approval of the merger that is material to the implementation is not complied with.*

**L. //GAROEB
CHAIRPERSON
NAMIBIAN COMPETITION COMMISSION**

NAMIBIAN COMPETITION COMMISSION

No. 241

2023

NOTICE OF DETERMINATION MADE BY THE COMMISSION
IN RELATION TO THE PROPOSED MERGER:
SANLAM LIMITED AND SANLAM LIFE INSURANCE LIMITED //
AFROCENTRIC INVESTMENT CORPORATION LIMITED

Competition Act, 2003 (Act No. 2 of 2003)
(Section 47(7), Rule 30)

CASE NO.: 2023FEB0005MER

1. The Commission has received notification of the abovementioned proposed merger on **22 February 2022**.
2. Please note that the Commission has approved the proposed merger without conditions.

3. The Commission's decision is based on the grounds that the proposed merger is not likely to prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.
4. Note that the Commission has the authority, in terms of section 48(1) of the Act, to revoke a decision approving the implementation of a proposed merger if -
 - (a) *the decision was based on materially incorrect or misleading information for which a party to the merger is responsible; or*
 - (b) *any condition attached to the approval of the merger that is material to the implementation is not complied with.*

**L. //GAROEB
CHAIRPERSON
NAMIBIAN COMPETITION COMMISSION**

NAMIBIAN COMPETITION COMMISSION

No. 242

2023

**NOTICE OF DETERMINATION MADE BY THE COMMISSION
IN RELATION TO THE PROPOSED MERGER:
HYDRILLA INVESTMENTS (PROPRIETARY) LIMITED //
OTJIMBELE AGRICULTURE (PROPRIETARY) LIMITED**

Competition Act, 2003 (Act No. 2 of 2003)
(Section 47(7), Rule 30)

CASE NO.: 2023MAR0009MER

1. The Commission has received notification of the abovementioned proposed merger on **10 March 2023**.
2. Please note that the Commission has **approved the proposed merger with conditions**.
3. The Commission's decision is based on the grounds that the proposed merger is not likely to prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003. However, in order to maintain employment of current employees, the Commission recommends that the merger be approved with the following conditions:
4. **There shall be no retrenchment of current employees of the merged undertaking because of the merger for at least a period of 3 years from the date of approval of the proposed merger.**

For the sake of clarity retrenchments do not include:

- 4.1 voluntary separation, resignation and voluntary early retirement ("voluntary separations");
- 4.2 retrenchments which are merger specific but agreed on with the Commission in writing after the date of approval of the merger ("merger specific retrenchments"); and

- 4.3 all employees of merged undertaking shall be employed on terms and conditions of employment that are on the whole not less favorable to them than their existing terms and conditions of employment.

COMPLIANCE PROCEDURES, MONITORING AND REPORTING OBLIGATIONS

Non- merger specific retrenchments

5. For the sake of transparency, in the event that the merged undertakings identify any non-merger specific retrenchments, it will inform the Commission of these potential retrenchments at least one month before these retrenchments are due to be effected. The merged undertakings correspondence must include, but is not limited to:
 - 5.1 a list of employees likely to be affected by non-merger specific retrenchments;
 - 5.2 the number and categories of employees likely to be affected by the non-merger specific retrenchments, as well as their job titles;
 - 5.3 an explanation of the reasons that give rise to the non-merger specific retrenchments (including changes to operational requirements);
 - 5.4 a description of the steps taken by the merged undertakings to avoid the non-merger specific retrenchments; and
 - 5.5 the intended date of the non-merger specific retrenchments.

Reporting obligations

6. In order for the Commission to monitor compliance with the conditions the merged undertakings must, in addition to the correspondence referred to in paragraphs 3 above, provide the Commission with reports on the following dates:
 - 6.1 60 calendar days after the date of determination of the merger by the Commission, for the status as at the date of the implementation of the transaction (initial report);
 - 6.2 Thereafter on a biannual basis from the date of the initial report referred to in paragraph 4.1 for a period of 3 years.
7. The merger compliance reports must include but is not limited to the following information:

Regarding employment;

- 7.1 a list of all the employees as at the date of the report which includes their full names, positions, job grades and remuneration;
- 7.2 copies of the new employment contracts, under which the employees of the target undertaking are employed with the merged undertaking, for each different job grade and different position indicating the terms and conditions of employment. Where employment contracts are concluded verbally, these must be reduced to writing and where the terms and conditions of employment are not contained in the employment contracts, the merged undertaking must provide a written statement containing the terms and conditions in respect of each job grade and position (which condition is only relevant for the first report);

- 7.3 a list of the employees retrenched from the time that the merger was approved or since the period covered by the most recent merger compliance report submitted to the Commission;
- 7.4 the reasons for the retrenchments; and
- 7.5 any additional information that may reasonably be required by the Commission to monitor compliance with the condition.

8. Definitions

- 8.1 **“Merged undertaking”** means collectively Hydrilla Investments (Proprietary) Limited and Otjimbele Agriculture (Proprietary) Limited and any subsidiary of the said entities, subsequent to the merger
- 8.2 **“Terms and conditions”** mean (among other things) maintaining the minimum remuneration of current employees and other fringe benefits currently enjoyed.
- 8.3 **“Employment contracts”** means any term and/or condition agreed upon between acquirer (as employer) and employee relating to, among others, employee duties and responsibilities, workdays, working hours, leave days, sick leave, remuneration, benefits such as pension and medical aid schemes or contributions thereto.
- 8.4 **“Commission”** means the Namibian Competition Commission.
- 8.5 **“Competition Act”** means the Competition Act, 2003 (Act No. 2 of 2003).
- 9 Note that the Commission has the authority, in terms of section 48(1) of the Act, to revoke a decision approving the implementation of a proposed merger if -
- (a) the decision was based on materially incorrect or misleading information for which a party to the merger is responsible; or
- (b) any condition attached to the approval of the merger that is material to the implementation is not complied with.

**L. //GAROEB
CHAIRPERSON
NAMIBIAN COMPETITION COMMISSION**

NAMIBIAN COMPETITION COMMISSION

No. 243

2023

NOTICE OF DETERMINATION MADE BY THE COMMISSION
IN RELATION TO THE PROPOSED MERGER:
THE TRUSTEES FOR THE TIME BEING OF THE KUNENE BUSINESS TRUST //
KCNE INVESTMENTS (PROPRIETARY) LIMITED //
CHRISTIAAN LILONGENI RANGA HAIKALI //
INEXMA ELECTRICAL NAMIBIA (PROPRIETARY) LIMITED

Competition Act, 2003 (Act No. 2 of 2003)
(Section 47(7), Rule 30)

CASE NO.: 2022NOV0050MER

1. The Commission has received notification of the abovementioned proposed merger on **16 December 2022**.
2. Please note that the Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on the grounds that the proposed merger is not likely to prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.
4. Note that the Commission has the authority, in terms of section 48(1) of the Act, to revoke a decision approving the implementation of a proposed merger if -
 - (a) *the decision was based on materially incorrect or misleading information for which a party to the merger is responsible; or*
 - (b) *any condition attached to the approval of the merger that is material to the implementation is not complied with.*

**L. //GAROEB
CHAIRPERSON
NAMIBIAN COMPETITION COMMISSION**

NAMIBIAN COMPETITION COMMISSION

No. 244

2023

NOTICE OF DETERMINATION MADE BY THE COMMISSION
IN RELATION TO THE PROPOSED MERGER:
SPARK ATM SYSTEMS (PROPRIETARY) LIMITED //
ALTRON MANAGED SOLUTIONS

Competition Act, 2003 (Act No. 2 of 2003)
(Section 47(7), Rule 30)

CASE NO.: 2022NOV0047MER

1. The Commission has received notification of the abovementioned proposed merger on **25 November 2022**.
2. Please note that the Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on the grounds that the proposed merger is not likely to prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.
4. Note that the Commission has the authority, in terms of section 48(1) of the Act, to revoke a decision approving the implementation of a proposed merger if -
 - (a) *the decision was based on materially incorrect or misleading information for which a party to the merger is responsible; or*
 - (b) *any condition attached to the approval of the merger that is material to the implementation is not complied with.*

**L. //GAROEB
CHAIRPERSON
NAMIBIAN COMPETITION COMMISSION**

NAMIBIAN COMPETITION COMMISSION

No. 245

2023

NOTICE OF DETERMINATION MADE BY THE COMMISSION
IN RELATION TO THE PROPOSED MERGER:
JOHANNES VAN ROOYEN MULLER // KUNENE BUSINESS TRUST //
TULONGENI TRUST

Competition Act, 2003 (Act No. 2 of 2003)
(Section 47(7), Rule 30)

CASE NO.: 2022DEC0052MER

1. The Commission has received notification of the abovementioned proposed merger on **9 December 2022**.
2. Please note that the Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on the grounds that the proposed merger is not likely to prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.
4. Note that the Commission has the authority, in terms of section 48(1) of the Act, to revoke a decision approving the implementation of a proposed merger if-
 - (a) *the decision was based on materially incorrect or misleading information for which a party to the merger is responsible; or*
 - (b) *any condition attached to the approval of the merger that is material to the implementation is not complied with.*

**L. //GAROEB
CHAIRPERSON
NAMIBIAN COMPETITION COMMISSION**

NAMIBIAN COMPETITION COMMISSION

No. 246

2023

NOTICE OF DETERMINATION MADE BY THE COMMISSION
IN RELATION TO THE PROPOSED MERGER:
AFRI-TRACK GROUP HOLDINGS (PTY) LTD //
AFRI-TRACK RAILWAY CONSTRUCTION (PTY) LTD

Competition Act, 2003 (Act 2 of 2003)
(Section 47(7), Rule 30)

CASE NO.: 2022SEP0040MER

1. The Commission has received notification of the abovementioned proposed merger on **9 December 2022**.
2. Please note that the Commission has prohibited the proposed merger.
3. The Commission's decision is based on the grounds that:
 - 3.1 Although the proposed merger is not likely to prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003, the proposed transaction does however raise broader public interest concerns, on the basis that the primary target undertaking is subject to a provisional restraint order in terms of Section 25 of the Prevention of Organised Crime Act 29 of 2004 ordered by the High Court of Namibia and approval of the merger by the Commission may aid the circumvention of the said order. The provisional restraint order prevents the disposal of the properties and the handling of shareholding in the properties, companies or close corporation of the respondents in manners other than prescribed in the order.
 - 3.2 Furthermore, the said court order is binding on any person, persons or institution that is privy to the contents of the court order, and as such, the Commission would be an institution that is bound by the said court order.
 - 3.3 The Commission legally, is permitted to prohibit the merger on the above-mentioned grounds, as Section 47(2) of the Act makes provision that in determining an appropriate determination the Commission may rely on any criteria that may be appropriate in the circumstances. Considering the broader public interest concerns emanating from the restraint order, The Commission interprets a court order prohibiting the sale of the said assets as a criterion that is appropriate to consider in prohibiting the merger.

**L. //GAROEB
CHAIRPERSON
NAMIBIAN COMPETITION COMMISSION**

NAMIBIAN COMPETITION COMMISSION

No. 247

2023

**NOTICE OF DETERMINATION MADE BY THE COMMISSION
IN RELATION TO THE PROPOSED MERGER:
GRACE INVESTMENTS TWO TWO ZERO (PTY) LTD // TEUFELSBACH (PTY) LTD**

Competition Act, 2003 (Act No. 2 of 2003)
(Section 47(7), Rule 30)

CASE NO.: 2023MAR0008MER

1. The Commission has received notification of the abovementioned proposed merger on **2 March 2023**.
2. Please note that the Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on the grounds that the proposed merger is not likely to prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.

4. Note that the Commission has the authority, in terms of section 48(1) of the Act, to revoke a decision approving the implementation of a proposed merger if -
 - (a) *the decision was based on materially incorrect or misleading information for which a party to the merger is responsible; or*
 - (b) *any condition attached to the approval of the merger that is material to the implementation is not complied with.*

**L. //GAROEB
CHAIRPERSON
NAMIBIAN COMPETITION COMMISSION**

NAMIBIAN COMPETITION COMMISSION

No. 248

2023

**NOTICE OF DETERMINATION MADE BY THE COMMISSION
IN RELATION TO THE PROPOSED MERGER:
WINSTON GREYLING // OPTIMAL INVESTMENTS (PTY) LTD**

Competition Act, 2003 (Act No. 2 of 2003)
(Section 47(7), Rule 30)

CASE NO.: 2023FEB0007MER

1. The Commission has received notification of the abovementioned proposed merger on **24 February 2023**.
2. Please note that the Commission has **approved the proposed merger without conditions**.
3. The Commission's decision is based on the grounds that the proposed merger is not likely to prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.
4. Note that the Commission has the authority, in terms of section 48(1) of the Act, to revoke a decision approving the implementation of a proposed merger if -
 - (a) *the decision was based on materially incorrect or misleading information for which a party to the merger is responsible; or*
 - (b) *any condition attached to the approval of the merger that is material to the implementation is not complied with.*

**L. //GAROEB
CHAIRPERSON
NAMIBIAN COMPETITION COMMISSION**

NAMIBIAN COMPETITION COMMISSION

No. 249

2023

NOTICE OF DETERMINATION MADE BY THE COMMISSION
IN RELATION TO THE PROPOSED MERGER:
TREVALI MINING CORPORATION & ROSH PINAH ZINC CORPORATION //
APPIAN NATURAL RESOURCES FUND III
AND APPIAN NATURAL RESOURCES (UST) FUND III

Competition Act, 2003 (Act 2 of 2003)
(Section 47(7), Rule 30)

CASE NO.: 2023FEB0002MER

1. The Commission has received notification of the abovementioned proposed merger on **24 March 2023**.
2. Please note that the Commission has **approved the proposed merger with the following conditions**:
 - 2.1 The transaction raises no competition concerns or public interest concerns that could be detrimental to the Namibian economy or mining industry in specific. However, the parties in 2012 filed for a merger between Wilru Investments One Hundred and Thirty-Four (Pty) Ltd and Exxaro Base Metals Namibia (Pty) Ltd that was approved with conditions. The conditions were in support of local Namibian beneficiation and aimed to ensure value addition to Namibian resources in order to increase export earnings and employment. Therefore, the Secretariat recommends that the below merger conditions continue in order to ensure local beneficiation:
 - i. **Rosh Pinah Zinc Corporation (Pty) Ltd (“Rosh Pinah”) shall honour its commitment to the Memorandum of Agreement with Skorpion Mining Company (Pty) Ltd, dated 20 June 2005, as amended (“MOU”) or any subsequent agreement entered into in such respect as a valid, legally binding and enforceable agreement and will diligently enforce its rights under the MOU or subsequent agreement in such respect with a view of procuring the expeditious development of the Gergarub Project. Rosh Pinah shall process the ore from the Gergarub mine into zinc sulphide concentrates in Namibia and shall support further processing of such zinc sulphide concentrates in Namibia on a commercially self-sustaining and economically viable basis.**

MONITORING COMPLIANCE

- 2.1.1 At Date of Implementation the merged undertaking shall provide the Commission with a status report on the Memorandum of Agreement (MOA), any subsequent agreement in such respect and the Gergarub Project.
- 2.1.2 Thereafter, bi -annual provide the Commission with progress reports in the forms the Commission would advise from time to time.

Definitions:

“**Commission**” means the Namibian Competition Commission, a statutory body established in terms of the Competition Act, 2003 (Act No. 2 of 2003);

“**Gergarub Project**” means Gergarub Exploration and Mining (Proprietary) Limited which is a joint venture company owned 51% by Skorpion Zinc (Pty) Ltd and 49% by Rosh Pinah Zinc Corporation (Proprietary) Limited.

“**Implementation Date**” means the date, occurring after the Approval Date, on which the Merger is implemented by the Merging Parties;

“**Merged undertaking/entity**” means the undertakings that constitute the acquiring and target undertakings as defined herein.

3. The Commission’s decision is based on the grounds that the proposed merger is not likely to prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.
4. Note that the Commission has the authority, in terms of section 48(1) of the Act, to revoke a decision approving the implementation of a proposed merger if -
 - (a) *the decision was based on materially incorrect or misleading information for which a party to the merger is responsible; or*
 - (b) *any condition attached to the approval of the merger that is material to the implementation is not complied with.*

**L. //GAROEB
CHAIRPERSON
NAMIBIAN COMPETITION COMMISSION**

NAMIBIAN COMPETITION COMMISSION

No. 250

2023

**NOTICE OF DETERMINATION MADE BY THE COMMISSION
IN RELATION TO THE PROPOSED MERGER:
THE YIELD STABILIZATION TRUST // JEDIDJA INVESTMENTS (PTY) LTD**

Competition Act, 2003 (Act No. 2 of 2003)
(Section 47(7), Rule 30)

CASE NO.: 2023FEB0006MER

1. The Commission has received notification of the abovementioned proposed merger on **24 February 2023**.
2. Please note that the Commission has **approved the proposed merger without conditions**.
3. The Commission’s decision is based on the grounds that the proposed merger is not likely to prevent or lessen competition in Namibia, as envisaged by section 47(2) of the Competition Act, 2003.

4. Note that the Commission has the authority, in terms of section 48(1) of the Act, to revoke a decision approving the implementation of a proposed merger if -
- (a) *the decision was based on materially incorrect or misleading information for which a party to the merger is responsible; or*
 - (b) *any condition attached to the approval of the merger that is material to the implementation is not complied with.*

**L. //GAROEB
CHAIRPERSON
NAMIBIAN COMPETITION COMMISSION**

NAMIBIAN COMPETITION COMMISSION

No. 251

2023

**NOTICE OF DETERMINATION MADE BY THE COMMISSION
IN RELATION TO THE PROPOSED MERGER:
GONDWANA HOLDING LIMITED // HEJA GAME LODGE CC**

Competition Act, 2003 (Act No. 2 of 2003)
(Section 47(7), Rule 30)

CASE NO.: 2022OCT0044MER

1. The Commission has received notification of the abovementioned proposed merger on **27 October 2022**.
2. Please note that the Commission has **approved the proposed merger with conditions**.
3. Although the proposed merger is unlikely to result in the prevention or substantial lessening of competition it raises public interest concerns, in particular employment concerns and the Secretariat recommends that the merger be approved subject to the following conditions:
 - 3.1 The target undertaking shall issue recommendation/motivational letters to all its Employees upon the implementation of the merger as a reference to seek employment.
 - 3.2 The merged undertaking shall re-employ a minimum of 30 employees of the target undertaking in the merged undertaking or other subsidiaries within the acquiring group within a period of 1 (one) year from the date of implementation of the proposed merger in the following manner:
 - 3.2.1 The merged undertaking shall obtain the Curriculum Vitae (“CV’s”) of the Retrenched Employees from the target undertaking to add to its database of CV’s for which candidates for existing and future vacancies are shortlisted for consideration for filling of vacancies.
 - 3.2.2 Should a vacancy arise at the merged undertaking from the date of approval of the proposed merger, the merged undertaking shall use its commercially reasonable endeavours to inform the Retrenched Employees of the vacancy using the contact details on its database.

- 3.2.3 Where a Retrenched Employee applies for a vacant position and the merged undertaking is reasonably satisfied that the Retrenched Employee is suitable for the said position, the merged undertaking shall, after consideration of its Recruitment Policy and procedures, give preference to such Retrenched Employee in the recruitment process.
- 3.3 In the event that the merged undertaking continues operating the same business or a business with similar activities as that currently conducted by the target undertaking on the acquired property, it shall re-employ all the target undertaking's employees.

COMPLIANCE PROCEDURES, MONITORING AND REPORTING OBLIGATIONS

Non-merger specific retrenchments

- 3.4 The Merging Parties shall inform the Commission of the implementation date within 5 (five) days of its occurrence.
- 3.5 The merged undertaking shall inform the employees of the Commission's decisions in writing within 30 (thirty) days before the implementation date and shall circulate a copy of the gazetted merger determination to all Employees and/or their respective representatives.
- 3.6 As proof of compliance with paragraph 3.5 the merged undertaking shall, within 10 (ten) days of informing the employees of the Commission's decision provide the Commission with a register signed by each employee attesting to them receiving the recommendation letter and being informed of the Commission's decision and attach copies of the recommendation letter and notice informing the employees.
- 3.7 As further proof of compliance with paragraph 3.5 the merged undertaking shall, within 10 (ten) days of gazetting of the Commission's decision, provide the Commission with a register signed by each employee attesting to them being provided a copy of the gazetted merger determination.

Reporting obligations

- 3.8 The Merging Parties shall submit to the Commission a list of Retrenched Employees, their CV's and their contact details within 10 (ten) Days of the Implementation Date.
- 3.9 The merged undertaking shall on a bi-annual basis for a period of 1 (one) year provide the Commission with a list of vacancies with full description of the job that have arisen from the acquiring undertaking and documentation of its commercially reasonable endeavours adopted to inform the Retrenched Employees of the vacancy. Including name of employees, how they were contacted and their response.
- 3.10 The merged undertaking shall on a bi-annual basis for a period of 1 (one) year provide the Commission with a list of Retrenched Employees shortlisted for vacancies at the acquiring undertaking and details of whether such employees were successful or not, in the instance that the person(s) were not successful, provide the Commission with reasons in terms of the merged undertakings recruitment policy and procedures, why the said person(s) were not successful.

- 3.11 In the event that the merged undertaking continues operating the same business or similar activities as that currently conducted by the target undertaking on the acquired property, the merged undertaking shall provide the Commission with annual merger compliance reports for a period of 3 (three) years from the Date of Implementation which must include but is not limited to the following information:

Regarding employment

- 3.11.1 A list of all the employees as at the date of the report which includes their full names, positions and relevant department or division, job grades and remuneration;
- 3.11.2 Copies of the existing (pre-proposed transaction) employment contracts for each different job grade and different position indicating the terms and conditions of employment. Where employment contracts are concluded verbally these must be reduced to writing and where the terms and conditions of employment are not contained in the employment contracts, the merged undertaking must provide a written statement containing the terms and conditions in respect of each job grade and position (which condition is only relevant for the initial report);
- 3.11.3 Copies of the new employment contracts, under which the employees of the target undertaking are employed with, for each different job grade and different position indicating the terms and conditions of employment. Where employment contracts are concluded verbally, these must be reduced to writing and where the terms and conditions of employment are not contained in the employment contracts, the merged undertaking must provide a written statement containing the terms and conditions in respect of each job grade and position (which condition is only relevant for the first report);
- 3.11.4 A list of the employees who have left the employment from the time that the merger was approved or since the period covered by the most recent merger compliance report submitted to the Commission;
- 3.11.5 The reasons for the retrenchments; and
- 3.11.6 Any additional information that may be required by the Commission to monitor compliance with the Condition.

4. Definitions

The following expressions shall bear the meaning assigned to them below and cognate expressions bear a corresponding meaning:

- 4.1 **“Acquiring Undertaking”** means Gondwana Holding Limited, including all its Subsidiaries;
- 4.2 **“Acquiring group”** means the total of all the undertakings as defined in rule 27(1)(a)(b)(c);
- 4.3 **“Approval Date”** means the date on which the merger is approved by the Commission.

- 4.4 **“Commission”** means the Namibian Competition Commission, a statutory body established in terms of the Competition Act, 2003 (Act No. 2 of 2003.);
- 4.5 **“Conditions”** means these conditions;
- 4.6 **“Day”** means any calendar day which is not a Saturday, a Sunday or an official public holiday in Namibia;
- 4.7 **“Employee”** has the same meaning as in the Labour Act;
- 4.8 **“Employees likely to be retrenched”** means a total of employees that may be retrenched for operational reasons;
- 4.9 **“Implementation date”** means the date, occurring after the Approval Date, on which the Merger is implemented by the Merging Parties;
- 4.10 **“Labour Act”** means the Namibian Labour Act 6 of 1992, as amended;
- 4.11 **“Merged undertaking”** means the undertakings that constitute the acquiring and target undertakings as defined herein;
- 4.12 **“Retrenched Employees”** means the total of employees that have been retrenched for operational reasons by the target undertaking;
- 4.13 **“Retrenchments”** constitute dismissals arising from collective termination or redundancy. It does not include voluntary separation, resignation and voluntary early retirement (“voluntary separations”);
- 4.14 **“Similar activities”** include a lodge, events which includes weddings and conferences, entertainment, and restaurant facilities; and
- 4.15 **“Target undertaking”** means Heja Game Lodge CC (to be converted to Heja Game Lodge (Pty) Ltd), including the immovable properties.
5. Note that the Commission has the authority, in terms of section 48(1) of the Act, to revoke a decision approving the implementation of a proposed merger if -
- (a) *the decision was based on materially incorrect or misleading information for which a party to the merger is responsible; or*
- (b) *any condition attached to the approval of the merger that is material to the implementation is not complied with.*

**L. //GAROEB
CHAIRPERSON
NAMIBIAN COMPETITION COMMISSION**
