

Circular Thirty-Four: To All Known Creditors and Other Affected Persons of Arnot Opco Proprietary Limited (Registration Number: 2019/072282/07) (in Business Rescue) (the “Company”)

09 October 2026

Dear Sir/Madam

1. The purpose of this circular is to update creditors and other affected persons about the outcome of the appeal application which was launched in the Constitutional Court (**CC**) by Salungano Group Limited (“**Salungano**”) and Ndalamo Coal Proprietary Limited (“**Ndalamo**”) against the whole of the judgement and order of the Supreme Court of Appeal (“**SCA**”) which was handed down on 29 January 2025 under case number 1157/2023 in which the SCA overturned the order of Wilson J in the Gauteng Local Division of the High Court.
2. Creditors will recall that the appeal in the CC was heard on 19 February 2026, in Johannesburg. Judgement was handed down on 07 October 2026 by the full bench, who heard the same application.
3. A copy of the judgement is attached for ease of reference. The following order was granted:
 - 2.1. Leave to appeal is granted;
 - 2.2. The appeal is upheld; and
 - 2.3. The order of the Supreme Court of appeal is set aside and replaced with the following:
 - 2.3.1. It is declared that Chapter 6 of the Companies Act 71 of 2008 does not permit post-commencement creditors to vote on the adoption of the business rescue plan.
 - 2.3.2. It is declared that the amended business rescue plan presented on 28 July 2023 was not supported by the holders of more than 75% of the creditors voting interest as required by section 152(2) of the Companies Act 71 of 2008. As a result, the matter is remitted to the business rescue practitioner for a fresh vote.



Contact us

011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office

Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address

Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



ARNOTOPCO

- 2.4. The respondents must pay the applicants cost, including the cost of two counsels in the High Court, the Supreme Court of Appeal and the Constitutional Court.
4. The BRP is currently considering the judgement and will update creditors on the next steps as soon as possible.
5. **Conclusion**

Creditors and other affected persons of the Company may direct their queries in relation to this circular to: ArnotOpcobr@gcs-sa.co.za but are also reminded that all relevant notices and documents (including the Applications) are available online at this link: <https://arnot-opco.com/business-resscue/>.

Yours faithfully,

Phahlani Mkhombo N.O.
Business Rescue Practitioner
Arnot Opco Proprietary Limited (in Business Rescue)



Contact us

011 513 3000
013 297 8008
talktous@arnotopco.com
www.arnot-opco.com



Head Office

Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097



Physical Address

Farm Rietkuil 491 JS
Private Bag X3
Rietkuil
1097