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Our Ref: **MR GT VD MERWE/st/S583/13**

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8 July 2022

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CC: Ngeno & Mteto Incorporated

Ref: PRA/355/LIT/ MR NGENO

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Dear Sir,

**SIYANGENA TECHNOLOGIES (PTY) LTD ("SIYANGENA")
/ PASSENGER RAIL AGENCY OF SOUTH AFRICA
("PRASA")**

**IN RE: INTERVENTION APPLICATION #UNITEBEHIND
("THE APPLICATION")**

SCA CASE NUMBER: 487/2022

1. We refer to the abovementioned matter and in particular the application to intervene ("**the application**") supported by the founding affidavit of Mr A Achmat deposed to on **23 June 2022** ("**the affidavit**").
2. Although our client is of the view that **the application** is not only without merit (also unreasonably late), the advice our client received was not to oppose the application for *inter alia* the following reasons:
 - 2.1 Our client has nothing to hide or to keep from the court, with specific reference to the alleged conduct referred to in **the affidavit**.
 - 2.2 The invitation to meet with the **PRASA** executive team was received on a formal letterhead of **PRASA**.
 - 2.3 The "*without prejudice*" meeting held with **PRASA** explored a potential settlement under circumstances where the parties are involved in litigation and in terms of which both parties considered it purposeful to find a solution to the pending litigation.
 - 2.4 It is not correct that **PRASA** made an offer to **Siyangena** as alluded to in paragraph 23 of **the affidavit**.
 - 2.5 It is not correct that a "*new contract was offered in a further contravention of tender procurement legislation and procedures*" as alleged in paragraph 23 of **the affidavit**.
 - 2.6 Our client never received an offer from **PRASA** as alleged in **the affidavit**. Our client never made an offer as mentioned in **the affidavit**. The discussions took place in an effort to find a possible solution and although the parties explored various

options no offers were made or considered for acceptance thereof.

2.7 At no point in time (prior to the letter of Webber Wentzel dated **30 May 2022**) did **Siyangena** have knowledge of the opinion referenced in **the affidavit**.

2.8 In our letter dated **6 June 2022** (referenced in paragraph 6 of **the affidavit**) we recorded that our client did not partake in any conduct which can be interpreted as unlawful, inappropriate, or extraordinary under the circumstances. As such we refused to furnish you with an undertaking that **Siyangena** will not participate in any meaningful discussions with **PRASA** and/or the representatives of **PRASA**. It is, with respect, not for **#UniteBehind** to dictate to the parties how to pursue their matter and/or the legal remedies available to them.

2.9 Any opposition to **the application** may result in a delay of the appeal which is currently enrolled for argument on **26 August 2022**. Our client has no desire or intention to participate in any proceedings which will cause delay in the finalisation of the matter.

2.10 **The application** does not take the matter any further for **#UniteBehind** and as a consequence the advice received by our client was not to oppose **the application** although we submit that it should fail.

3. As a consequence we will not serve a notice to oppose **the application** although counsel for **Siyangena** will bring the content of this letter to the attention of the court as and when the matter is argued.

Yours faithfully,

Gert van der Merwe

VAN DER MERWE & ASSOCIATES

*(*In the interest of expeditious correspondence exchange this letter was dictated by Gert van der Merwe but not proofread before being dispatched.)*