

# NOTICE TO SHAREHOLDERS

**Notice is hereby given that the one hundred and nineteenth annual general meeting of shareholders will be held at the Corporate Office, Amanzimnyama Hill Road, Tongaat, KwaZulu-Natal on Friday 29 July 2011 at 09h00.**

## **Order of business**

1. To receive and adopt the annual financial statements of the company for the year ended 31 March 2011
2. To re-appoint Deloitte & Touche (with Wentzel Moodley as designated auditor) as external auditors.
3. To elect directors in place of B G Dunlop, F Jakoet, N Mjoli-Mncube and M H Munro, who retire by rotation in terms of article 61 of the articles of association and who, being eligible, offer themselves for re-election. Motions for re-election will be moved individually. Details of each of these retiring directors are set out in pages 53 to 55 of the integrated annual report.
4. To elect the Audit and Compliance committee in terms of the Companies Act, 2008 as amended. The committee will comprise a minimum of three members. The proposed members of the committee are J John (Chairman), F Jakoet, R P Kupara and M Mia. Details of each of these committee members are set out in pages 53 to 54 of the integrated annual report.
5. To consider and, if deemed fit, to pass, with or without modification, the following resolutions, subject to the approval of the JSE Limited (JSE):

## **Special Resolution Number 1**

“Resolved as a special resolution that:

- a. the acquisition by the company of shares or debentures (securities) issued by it on such terms and conditions as the directors of the company may deem fit; and
- b. the acquisition by any subsidiary of the company of securities issued by the company on such terms and conditions as the directors of any such subsidiary may deem fit;

be and it is hereby approved as a general approval in terms of JSE Listings Requirements; provided that:

1. the number of ordinary shares acquired in any one financial year shall not exceed five percent of the ordinary shares in issue at the date on which this resolution is passed;
2. such general approval
  - 2.1 shall be valid only until the next annual general meeting of the company or the expiry of a period of 15 months from the date of this resolution, whichever occurs first, or until varied or revoked prior thereto by special resolution at any general meeting of the company; and
  - 2.2 is subject to compliance with the requirements of sections 46 and 48 of the Companies Act 2008.
3. such acquisitions may not be made at a price greater than ten percent above the weighted average of the market value for the securities on the JSE for the five business days immediately preceding the date on which the transaction for the acquisition is effected. The JSE will be consulted for a ruling if the company's securities have not traded in such five business day period;
4. the acquisitions be effected through the order book operated by the JSE trading system;
5. the company appoints, at any point in time, only one agent to effect any acquisition/s on the company's behalf;
6. acquisitions will not be undertaken by the company or its subsidiaries during a prohibited period, as defined by the JSE Listings Requirements;
7. when the company and/or its subsidiaries have cumulatively repurchased three percent of the initial number (the number of that class of shares in issue at the time that general authority from shareholders is granted) of the relevant class of securities, and for each three percent in aggregate of the initial number of that class acquired thereafter, a press announcement must be made giving the details required in terms of the JSE Listings Requirements, in respect of such acquisitions;
8. the company will ensure that its sponsor will provide the necessary letter on the adequacy of the working capital in terms of the JSE Listings

## NOTICE TO SHAREHOLDERS continued

Requirements, prior to the commencement of any purchase of the company's shares on the open market;

9. before entering the market to effect the general repurchase, the directors, having considered the effects of the repurchase of the maximum number of ordinary shares in terms of the foregoing general authority, will ensure that for a period of 12 months after the date of the notice of annual general meeting:
  - the company will be able, in the ordinary course of business, to pay its debts;
  - the assets of the company, fairly valued in accordance with International Financial Reporting Standards, will exceed the liabilities of the company;
  - the company's ordinary share capital, reserves and working capital will be adequate for ordinary business purposes;
10. this authority will be used if the directors consider that it is in the best interests of the company and shareholders to effect any such acquisitions having regard to prevailing circumstances and the cash resources of the company at the relevant time."

The general information regarding the company, referred to in paragraph 11.26(b) of the JSE Listings Requirements, is contained in the integrated annual report on the page references as follows:

- a. directors of the company;
- b. major shareholders;
- c. directors' interests in the company's securities;
- d. directors' responsibility statement
- e. share capital.

There have been no material changes since 31 March 2011.

The company is not a party to any material litigation nor is it aware of any pending material litigation to which it may become a party.

The directors (whose names appear in the integrated annual report) collectively and individually accept full responsibility for the accuracy of the information given and certify, that to the best of their knowledge and belief, there are no facts that have been omitted which would make any statement false or misleading, and that all reasonable enquiries to ascertain such facts have been made and that this notice of the annual general meeting contains all information required by law and the JSE Listings Requirements.

The effect of special resolution number 1 is to provide a general authority for the company and its subsidiaries to acquire shares issued by it in accordance with the provisions of the Companies Act and the JSE Listings Requirements.

### **Ordinary Resolution Number 1**

"Resolved as an ordinary resolution that the directors be and are hereby authorised and empowered to do all such things and sign all such documents and procure the doing of all such things and the signature of all such documents as may be necessary or incidental to give effect to the approval granted in terms of special resolution number 1."

### **Ordinary Resolution Number 2**

"Resolved as an ordinary resolution that the unissued shares in the capital of the company (other than the shares reserved for the purposes of The Tongaat-Hulett Employees Share Incentive Scheme and The Tongaat-Hulett Group Limited 2001 Share Option Scheme) be and are hereby placed under the control of the directors of the company who are hereby authorised to allot and issue such shares at their discretion, including for scrip dividend distribution or capital funding optimisation if appropriate, upon such terms and conditions as they may determine, subject to the proviso that the aggregate number of shares to be allotted and issued in terms of this resolution shall be limited to five percent of the number of shares in issue at 29 July 2011 and subject to the provisions of the Companies Act and the JSE Listings Requirements."

### Ordinary Resolution Number 3

“Resolved as an ordinary resolution that subject to the passing of ordinary resolution number 2 and the approval of a 75 percent majority of the votes cast by shareholders present in person or represented by proxy at the annual general meeting at which this resolution is proposed, and the JSE Listings Requirements, the directors of the company be and are hereby authorised and empowered to allot and issue for cash, without restriction, all or any of the unissued shares in the capital of the company placed under their control in terms of ordinary resolution number 2 as they in their discretion may deem fit (including for the reasons explained in ordinary resolution number 2), provided that:

- this authority shall not extend beyond 15 months from the date of this annual general meeting;
- a paid press announcement giving full details, including the impact on net asset value and earnings per share, will be published at the time of any issue representing, on a cumulative basis within one financial year, five percent or more of the number of ordinary shares of the company's ordinary share capital in issue prior to such issues provided further that such issues shall not in any one financial year exceed five percent of the company's issued ordinary share capital; and
- in determining the price at which an issue of shares will be made in terms of this authority, the maximum discount permitted shall be ten percent of the weighted average traded price of the shares in question over the 30 business days prior to the date that the price of the issue is determined or agreed by the directors. The JSE will be consulted for a ruling if the company's securities have not traded in such 30 business day period.

### Special Resolution Number 2

“Resolved as a special resolution that the remuneration, as set out in the table below, to be paid to directors for their service as directors of the company for the ensuing year, as recommended by the Remuneration Committee and the Board, subject to approval by the

shareholders at the annual general meeting, be and are hereby approved”.

### Proposed Directors' Fees from 29 July 2011 to 2012 AGM

Type of fee	Existing annual fees		Proposed annual fees from 29 July 2011 to the 2012 AGM	
	Annual Fixed/Retainer Fee R	Attendance Fee Per Meeting R	Annual Fixed/Retainer Fee R	Attendance Fee Per Meeting R
Tongaat Hulett Board:				
Chairman	508 200	67 760	559 020	74 535
Non-Executive Directors	143 895	19 185	158 285	21 105
Audit and Compliance Committee:				
Chairman	143 895	31 975	155 405	34 535
Non-Executive Directors	71 955	15 985	77 710	17 265
Remuneration Committee:				
Chairman	114 805	25 500	123 990	27 540
Non-Executive Directors	57 400	12 750	61 990	13 770
Risk & SHE Committee				
Chairman	114 805	25 500	123 990	27 540
Non-Executive Directors	57 400	12 750	61 990	13 770

Any special Board committee meeting, if required, would earn the same fees as the Remuneration Committee or Risk & SHE Committee.

Sections 66(8) and (9) of the Companies Act 2008 provide that the company may pay remuneration to its directors for their service as directors in accordance with a special resolution approved by the shareholders.

### Special Resolution Number 3

The company acts, *inter alia*, as treasury manager to its subsidiary and associate companies providing

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financial assistance, including in the form of inter-company loans and the guaranteeing of their debts, as and when appropriate in the course of business. The new Companies Act requires the following:

“Resolved as a special resolution that the directors be and are hereby granted the authority, subject to and as required in terms of the provisions of section 45 of the Companies Act 2008, as amended, to authorise the company to provide direct or indirect financial assistance (as defined in the Companies Act) that the directors may deem fit to any related or inter-related company or corporation of the company (as defined in the Companies Act), on the terms and conditions and for amounts that the directors may determine.”

Prior to the commencement of the Companies Act 2008 on 1 May 2011, the directors were entitled in general to authorise the company to provide such financial assistance without the need to obtain shareholder approval. The above special resolution number 3 grants the directors the authority (in place for a period of two years from the date of its adoption) now required by the Companies Act to authorise the company to provide financial assistance for purposes of funding group activities. It does not authorise the provision of financial assistance to a director or prescribed officer of the company.

In order for this special resolution number 3 to be adopted, the support of at least 75% (seventy-five per cent) of the voting rights exercised on the resolution is required.

### **Non-binding advisory vote**

“Resolved to endorse, through a non-binding advisory vote, the company’s remuneration policy and its implementation as set out in the Remuneration report contained on pages 50 to 51 of the integrated annual report.”

6. To transact such other business as may be transacted at a general meeting.

### **Voting**

Any shareholder who holds certificated ordinary shares in the company or who holds dematerialised

ordinary shares in the company through a Central Securities Depository Participant (CSDP) and who has selected “own name” registration, may attend, speak and vote at the annual general meeting or may appoint any other person or persons (none of whom need be a shareholder) as a proxy or proxies, to attend, speak and vote at the annual general meeting in such shareholder’s stead.

Should any shareholder who holds dematerialised ordinary shares in the company and has not selected “own name” registration, wish to attend, speak and vote at the annual general meeting, such shareholder should timeously inform his CSDP or broker for the purposes of obtaining the necessary letter of representation from such shareholder’s CSDP or broker to attend the annual general meeting or timeously provide such shareholder’s CSDP or broker with such shareholder’s voting instruction in order for the CSDP or broker to vote on such shareholder’s behalf at the annual general meeting.

A proxy form is enclosed for use by shareholders holding certificated ordinary shares in the company or dematerialised ordinary shares in the company through a CSDP and who have selected “own name” registration. Such proxy form, duly completed should be forwarded to reach the transfer secretaries of the company, by no later than 09h00 on Friday 22 July 2011. The completion of a proxy form will not preclude a member from attending the meeting.

By order of the Board



M A C Mahlari  
Company Secretary

Amanzimnyama  
Tongaat, KwaZulu-Natal  
26 May 2011