

TONGAAT HULETT LIMITED

**MINUTES OF THE ANNUAL GENERAL MEETING NO 128 HELD ELECTRONICALLY VIA
MICROSOFT TEAMS ON MONDAY, 28 SEPTEMBER 2020 AT 09:30**

PRESENT:

L von Zeuner	Chair (Chairman of the Board)
D Aitken	
R Dada	
B Florence	
J Jacobs	
M Jean-Louis	
M Tucker	
S le Roux	
C Logan	
V Madlela	
S Mia	
M Ncube	
P Staude	
D Woollam	

BOARD MEMBERS:

L Stephens	Non-executive Director
D Noko	Non-executive Director
A Sangqu	Non-executive Director
L de Beer	Non-executive Director
G Hudson	Chief Executive Officer
R Aitken	Chief Financial Officer
D Marokane	Executive Director

BY INVITATION:

A Crotty	
L du Plessis	
K Gemetzky	
V Horsley	
B Janse van Vuuren	
W Louw	
P Mashego	
W Modisapodi	
C Reddiar	
T Selaletse	
P Staude	
D van Vlaanderen	
C Whittaker	
J van Rooyen	Company Secretary

APOLOGIES:

None

A total of 587 770 ordinary shares were represented in person and by proxy.

The meeting was held electronically (including the voting) via Microsoft Teams as allowed for in Section 63(2) of the Companies Act No 71 of 2008 ("Companies Act") as well as Clause 6.5 of the company's Memorandum of Incorporation ("Mol").

1. WELCOME AND INTRODUCTION

The Chair introduced himself and welcomed everyone to the meeting, noting that this was the first fully electronic annual general meeting held in the 128 years of Tongaat's existence. A special welcome was extended to members of the Board, executives and employees.

The quorum for a meeting is at least three members present to exercise at least 25% of the voting rights by members present or by proxy. As a quorum was present, the meeting was duly constituted.

The Chair welcomed and introduced two new Board members and their roles as follows:

- Ms Louisa Stephens, member of the Risk, Capital and Investment Committee and the Remuneration and Human Resources Committee.
- Mr David Noko, incoming chair of the Social and Ethics, Health and Safety Committee and a member of the Remuneration and Human Resources Committee.

The Chair congratulated and thanked the executives who had ensured that the business had performed well under very challenging circumstances, despite the COVID-19 pandemic and difficult macroeconomic conditions. The turnaround strategy had been well executed whilst continuing to ensure the business-as-usual requirements were being met.

2. NOTICE OF MEETING

The notice of the Annual General Meeting had been circulated timeously, together with the 2020 Annual Report and was taken as read.

3. AGENDA

The Agenda, as included in the Notice of Meeting, was adopted.

4. MINUTES

The minutes of the previous meeting held on 24 January 2020 had been reviewed and approved by the Board of Directors and were tabled for information.

5. VOTING

As per clause 22.28(3) of the Mol, the voting would proceed on a poll basis. The voting would be concluded electronically (as allowed for in the Companies Act and the Mol) via the online functionality provided by the Transfer Secretaries, Computershare. The representative of the Transfer Secretaries would act as scrutineers of the voting.

Resolutions (as included in the Notice of Meeting) had been seconded by Ms Jean-Louis.

The Chair explained that questions would be allowed once all resolutions had been tabled. Voting would remain open until all questions had been dealt with.

6. STATUTORY REPORTS AND FINANCIAL STATEMENTS

The following reports for the period ending 31 March 2020 had been circulated, were taken as read and tabled for noting by shareholders:

- The Statutory Report of the directors
- The report of the Audit and Compliance Committee
- The report of the Risk, Social and Ethics and Health and Safety Committee
- The report of the Remuneration and HR Committee
- The Annual Financial Statements
- The Independent Auditors report

The above reports were NOTED by the meeting.

Questions on the reports raised during the meeting were dealt with as follows:

1. *Remuneration Committee:*

- Mr Woollam queried on what basis the Remuneration Committee had approved the remuneration policy for executives. Mr Sangqu (Chair of the Remuneration Committee) responded that competitive benchmarking had been performed against companies with a market cap equivalent to what the company should be on, not on its current valuation. It was anticipated that this would normalise over time. The peer group continues to be reviewed and the process refined.
- The deferment of remuneration had been negotiated with executives in accordance with the turnaround plan. RemCo was aware that anomalies existed and was refining the incentive process. The matter was work in progress. Mr Sangqu undertook to engage further with any shareholders who have concerns about or could provide input into the process as the Board believed transparency was critical.
- A question was raised about motivation for and justification of the transaction incentive bonuses paid to executives. Mr Sangqu requested time to prepare a response in order to present the basis on which the incentive bonuses had been established. The model had been based on the various components of the turnaround strategy. Equal weighting had been given to the turnaround of the operational performance and asset disposal.

2. *Annual Financial Statements:*

- Mr Woollam noted the complexity of the IFRS9 reporting requirements and recommended that a simplified management report showing the performance of the company on a normalised basis (for example, excluding Zimbabwe operations which had significantly impacted the results) be produced for shareholders to review. Mr Aitken confirmed that analyses had been performed of the company's performance to assess the performance of the South African entities and explained that the consolidation strategy was continually being reviewed.
- It was acknowledged that the Zimbabwe business had produced abnormal results, given the challenges faced in that country with hyperinflation and other economic factors.

3. *Audit Committee:*

- A question was posed as to the expected audited fees for the 2021 financial year. Ms de Beer, the Chair of the Audit Committee, explained that the audit fees for the new financial year had not yet been negotiated with Deloitte. However, the 2020

fees had been much higher than normal as they had included fees for a special audit and the fees would be normalised in 2021.

- Good reasons existed for having retained Deloitte for the current financial year audit but plans were being put in place to appoint new auditors for the 2022 financial year. Deloitte had removed all individuals previously involved in the audit process. Events were also being investigated by IRBA.
- The Chair confirmed that various initiatives had been launched to address the issues identified by PwC in their forensic investigation, some of which had been concluded while others were still in process. The Board upheld its commitment to investigate matters where necessary and to put actions in place to address these matters. Good governance processes had been put in place and Deloitte was cooperating with the Board in all matters.
- Given those challenges as well as the challenges arising from COVID-19, it had not been deemed practical to change auditors for the current financial year.
- Mr Logan raised various concerns about the gravity of events surrounding the audit and Deloitte failing to identify the issues for several years. The Chair of the Audit Committee confirmed that the committee was fully aware of the implications of the errors and was also fully committed to ensuring that Deloitte will be held accountable and that the matter would be satisfactorily addressed by the Company. The Board Legal Committee had engaged the Regulators and IRBA extensively on this matter and, together with management, was following due legal process. In addition, lessons learnt would be taken on board for future reference. Further action would be taken based on the facts that emerge.
- Mr Woollam commended the Board and management on the actions taken to date to turn the company around and to introduce good governance processes but emphasised the need to regain shareholder, investor and public confidence and highlighted the need to return the company to profitability. He pointed out that the company was, in effect, paying for the audit twice, both for the original audit and for the advisors as well as the work necessary to address the errors, and urged that the company take decisive action (against auditors, directors and management as appropriate) to recover fees where the work had been flawed.
- Mr Woollam noted that he had not received a response from the company or the Board to the report he had drawn up, that had brought attention to the matter in 2019.
- The Board undertook to be fully transparent and engage with shareholders on any matters of concern.

4. *General:*

- A question was raised on the ability of Tongaat Hulett to contribute towards national pride in South Africa. The Company had participated in the National Heritage celebrations and was contributing to various social initiatives.
- A question was raised about the contribution of the company to tourism in KwaZulu Natal. Mr Marokane reported that the company works closely with the City of Ethekwini local and provincial government on infrastructure developments. The company and its contribution to the province was being repositioned to enhance brand awareness.
- An update on the new university and shopping mall in Sibaya was provided. Good progress had been made on finalising agreements on both the university and the shopping mall despite delays as a result of investors reviewing their strategies in the light of COVID-19.

7. RESOLUTIONS

The Company Secretary confirmed that the quorum requirements for approval of resolutions were met.

The following Ordinary and Special Resolutions were tabled and proposed (in accordance with the MoI) for approval. The resolutions were passed as recorded in the minutes:

7.1 Ordinary Resolution No 1: Appointment of Independent Auditors

It was proposed that Deloitte be retained as independent auditors and Mr Mark Holme as designated auditor for the financial year ending 31 March 2021.

It was **RESOLVED** that, as required by section 90(1) of the Act, and as recommended by the Audit Committee, Deloitte be and is hereby reappointed as external auditors for the financial year ending 31 March 2021 (with Mark Holme as individual designated auditor).

Proposed: Mr L von Zeuner

Seconded: Ms M Jean-Louis

The resolution was carried by 67 542 653 votes (74%) to 23 726 633 votes (26%) and 4 565 213 abstentions.

7.2 Appointment of directors

All nominated directors were available and eligible for election and re-election and were proposed with the full support of the current Board. Abbreviated Curricula Vitae were included in the Annual Report for information. The Nominations Committee recommended the following appointments:

7.2.1 Ordinary Resolution No 2: Mr L von Zeuner

It was proposed that Mr L von Zeuner, who retires by rotation and had offered himself for re-election, be re-elected as an independent non-executive director of the Company.

It was **RESOLVED** that L von Zeuner, who retires by rotation and, being eligible, offers himself for re-election, be and is hereby re-elected as a director of the company.”

Proposed: G MacPherson

Seconded: M Jean-Louis

The resolution was carried by 95 161 943 votes (99.43%) to 547 771 votes (0.57%) and 124 785 abstentions.

7.2.2 Ordinary Resolution No 3: Ms L de Beer

It was proposed that Ms L de Beer, who retires by rotation and had offered herself for re-election, be re-elected as an independent non-executive director of the Company.

It was **RESOLVED** that L de Beer, who retires by rotation and, being eligible, offers herself for re-election, be and is hereby re-elected as a director of the company.

Proposed: Mr L von Zeuner
Seconded: Ms M Jean-Louis

The resolution was carried by 95 126 108 votes (99.39%) to 583 606 votes (0.61%) and 124 785 abstentions.

7.2.3 Ordinary Resolution No 4: Mr D Noko

It was proposed that Mr D Noko be appointed as an independent non-executive director of the Company.

It was **RESOLVED** that D Noko, having been appointed by the Board on 1 July 2020 and, due to the requirements of the Act, having offered himself for election and being eligible, be and is hereby elected as a director of the company.

Proposed: Mr L von Zeuner
Seconded: Ms M Jean-Louis

The resolution was carried by 95 572 000 votes (99.86%) to 137 714 votes (0.14%) and 124 785 abstentions.

7.2.4 Ordinary Resolution No 5: Ms L Stephens

It was proposed that Ms L Stephens be appointed as an independent non-executive director of the Company.

It was **RESOLVED** that L Stephens, having been appointed by the Board on 15 July 2020 and, due to the requirements of the Act, having offered herself for election and being eligible, be and is hereby elected as a director of the company.

Proposed: Mr L von Zeuner
Seconded: Ms M Jean-Louis

The resolution was carried by 95 582 639 votes (99.87%) to 127 075 votes (0.13%) and 124 785 abstentions.

7.3 Audit and Compliance Committee

Nominated members of the Audit and Compliance Committee were eligible and available for appointment. The Nominations Committee recommended the following appointments:

7.3.1 Ordinary Resolution No 6: Ms L de Beer

It was proposed that Ms L de Beer be appointed as a member of the Audit and Compliance Committee.

It was **RESOLVED** that, as required by section 94(2) of the Act to elect L de Beer, an independent non-executive director, as a member and Chair of the Audit Committee.

Proposed: Mr L von Zeuner
Seconded: Ms M Jean-Louis

The resolution was carried by 95 166 588 votes (99.43%) to 543 126 votes (0.57%) and 124 785 abstentions.

7.3.2 Ordinary Resolution No 7: Mr R Goetzsche

It was proposed that Mr R Goetzsche be appointed as a member of the Audit and Compliance Committee.

It was **RESOLVED** that, as required by section 94(2) of the Act, to elect R Goetzsche, an independent non-executive director, as a member of the Audit Committee.

Proposed: Mr L von Zeuner

Seconded: Ms M Jean-Louis

The resolution was carried by 95 570 934 votes (99.85%) to 183 780 votes (0.15%) and 124 785 abstentions.

7.3.3 Ordinary Resolution No 8: Mr J Nel

It was proposed that Mr J Nel be appointed as a member of the Audit and Compliance Committee.

It was **RESOLVED** that, as required by section 94(2) of the Act, to elect J Nel an independent non-executive director, as a member of the Audit Committee.

Proposed: Mr L von Zeuner

Seconded: Ms M Jean-Louis

The resolution was carried by 95 582 139 votes (99.87%) to 127 575 votes (0.13%) and 124 785 abstentions.

7.4 Ordinary Resolution No 9: Ordinary Share Issuance

It was proposed that the Board be authorised and empowered to issue unissued ordinary shares from time to time.

It was **RESOLVED** that the Board, subject to the approval of at least a 75% majority of the total number of votes exercised on this resolution, be authorised and empowered (subject to compliance with the provisions of the Act and the JSE Listings Requirements) to issue unissued ordinary shares from time to time (including, without limitation, pursuant to any options/convertible securities which the Board resolves from time to time to issue or create which are convertible or exercisable into, or will become, ordinary shares) for cash, on such terms and conditions and in such amounts as the Board may determine, provided that:

1. Any such issue shall be to “public shareholders’ as defined in the JSE Listings Requirements and not to “related parties”.
2. This authority shall be valid until the company’s next AGM or for 15 months from the date on which this resolution is passed, whichever period is shorter.
3. The total number of ordinary shares issued under this resolution shall not exceed 6 755 625 ordinary shares, being 5% of the number of ordinary shares in issue on the date on which this resolution is passed. In the event of a sub-division or consolidation of ordinary shares, the aforementioned number will be adjusted on a *pro rata* basis.

4. A paid press announcement giving full details, including the impact on net asset value and earnings per share, will be published as and when required by the JSE Listings Requirements.
5. In determining the price at which an issue of ordinary shares will be made in terms of this authority, the maximum discount permitted shall be 10% of the weighted average traded price of the ordinary shares on the JSE over the 30 business days prior to the date that the price of the issue is agreed between the company and the person subscribing for the shares. The JSE will be consulted for a ruling if the ordinary shares have not traded in such 30 business-day period.
6. References in this resolution to “issues” of shares includes the use of “treasury shares” (as defined in the JSE Listings Requirements).

Proposed: Mr L von Zeuner

Seconded: Ms M Jean-Louis

The resolution was carried by 70 836 104 votes (98.35%) to 1 190 597 votes (1.65%) and 23 807 798 abstentions.

7.5 Ordinary Resolution No 10: Delegation of Authority

It was proposed that directors and the Company Secretary be authorised to act on behalf of the company to give effect to the above resolutions.

It was **RESOLVED** that each director and the Company Secretary of the company (each being entitled to act individually) be and is hereby authorised, on behalf of the company, to do or cause to be done all such things, and sign or cause to be signed all such documentation, as may be necessary or desirable to give effect to the resolutions in the notice of AGM containing this resolution and, insofar as any such actions have been taken before the adoption of this resolution, such actions be and are hereby ratified and approved to the fullest extent permitted by law.

Proposed: Mr L von Zeuner

Seconded: Ms M Jean-Louis

The resolution was carried by 95 681 396 votes (99.97%) to 28 318 votes (0.03%) and 124 785 abstentions.

7.6 Special Resolution No 1: General authority to purchase shares in the company

It was proposed that the company be authorised to acquire shares when necessary.

It was **RESOLVED** that the company hereby approves, as a general approval contemplated in the JSE Listings Requirements, subject to compliance with the provisions of the Act and the JSE Listings Requirements, the acquisition by:

- the company of ordinary shares issued by it on such terms and conditions and in such amounts as the Board may determine; and
- any subsidiary of the company of ordinary shares issued by the company on such terms and conditions and in such amounts as the Board of directors of any such subsidiary may determine; provided that:

1. The total number of ordinary shares acquired by the company and its subsidiaries under this resolution shall not exceed 6 755 625, being 5% of the number of ordinary shares in issue on the date on which this resolution is passed. In the event of a sub-division or consolidation of ordinary shares, the aforementioned number will be adjusted on a *pro rata* basis.
2. Such general approval shall be valid only until the next AGM of the company or the expiry of a period of 15 months from the date on which this resolution is passed, whichever occurs first.
3. Such an acquisition may not be made at a price greater than 10% above the weighted average of the market value for ordinary shares 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 ordinary shares have not traded in such five business-day period.
4. The acquisitions shall be effected through the order book operated by the JSE trading system, without any prior understanding or arrangement between the company and the counterparty.
5. The company shall appoint, at any point in time, only one agent to effect any acquisition/s on the company's and its subsidiaries' behalf.
6. Acquisitions will not be undertaken by the company or its subsidiaries during a prohibited period, as defined by the JSE Listings Requirements, unless the company has in place a repurchase programme where the dates and quantities of ordinary shares to be traded during the relevant period are fixed and have been submitted to the JSE in writing prior to the commencement of the prohibited period.
7. When the company and/or its subsidiaries have cumulatively acquired 3% of the number of ordinary shares in issue on the date on which this resolution is passed, an announcement must be made giving the details required in terms of the JSE Listings Requirements, in respect of acquisitions.

Proposed: L von Zeuner

Seconded: Ms M Jean-Louis

The resolution was carried by 71 492 054 votes (84.15%) to 13 468 345 votes (15.85%) and 10 881 509 abstentions.

7.7 Special Resolution No 2: Approval of directors' fees

Proposed directors' fees to come into effect from the date of the AGM were tabled for approval. Directors fees had been restructured, resulting in lower fees than the previous financial year.

It was **RESOLVED** that, with effect from the date of the AGM at which this resolution is proposed, the remuneration as set out in the table below and as recommended by the Remuneration and Human Resources Committee and the Board, be and is hereby approved and ratified.

	NED current fees – December 2019 AGM to 2020 AGM		NED proposed fees – September 2020 to 2021 AGM*
	Retainer fee	Attendance fee per meeting	Fee
Board			

Chair**	1 300 000		1 300 000
Non-executive directors	249 255	33 234	372 800
Audit and Compliance Committee			
Chair	244 719	54 382	334 700
Non-executive members	122 372	27 187	167 600
Remuneration Committee			
Chair	195 250	43 369	205 000
Non-executive members	97 618	21 684	106 400
Nomination and Directors Affairs Committee			
Chair	195 250	43 368	137 700
Non-executive members	97 618	21 684	92 700
Social, Ethics, Health and Safety Committee			
Chair	195 250	43 368	188 400
Non-executive members	97 618	21 684	104 600
Strategy, Transformation and Operations Committee			
Chair	195 250	43 368	205 000
Non-executive Directors	97 618	21 684	106 400
Legal and Regulatory Committee			
Chair	(per hour)	4 000	3 000
Non-executive members	(per hour)	4 000	3 000
Ad hoc engagements			
Daily rate***	(per day)		18 000

*To be pro-rated for periods of less than 12 months.

**The role and responsibility of the Board Chair extends beyond the preparation for and attendance at meetings and have increased with the additional Committees. The Board Chair's fees have been restructured on an all-inclusive fee basis. The Chair's fees remain unchanged by reason of his decision to not accept an increase.

***The day rate is payable where non-executive director is engaged for a day, for example, for strategic sessions and operational visits.

Proposed: Bongani Gumede

Seconded: Ms M Jean-Louis

The resolution was carried by 87 525 190 votes (91.46%) to 8 174 180 votes (8.54%) and 135 129 abstentions.

7.8 Special Resolution No 3: Financial Assistance

It was proposed that the Board be mandated to authorise the company to provide direct or indirect financial assistance if and when necessary in relation to options and securities as per the following resolution:

It was resolved that the Board be and is hereby granted the authority required pursuant to section 44 of the Act to, from time to time, authorise the company to provide direct or indirect financial assistance (as defined in section 44 of the Act) that the Board may deem fit to any person (other than a director or prescribed officer of the company or a person related to a director or prescribed officer of the company) for the purpose of, or in connection with, the subscription of any option, or any securities, issued or to be issued by the company or a related or inter-related company, or for the purchase of any securities of the company or a related or inter-related company, on such terms and conditions and for such amounts as the Board may determine.

Proposed: Mr L von Zeuner

Seconded: Ms M Jean-Louis

The resolution **WAS NOT** carried as the requisite majority was not achieved. 59 015 299 votes (71.29%) were recorded for the resolution compared to 23 768 715 votes (28.71%) against and 13 057 894 abstentions.

It was noted that the Board had no immediate plans to use the proposed authority.

7.9 Non-binding advisory vote on the remuneration policy

The meeting was requested to endorse the company's remuneration policy.

It was **RESOLVED** to endorse, through a non-binding advisory vote, the company's remuneration policy as set out in the remuneration policy tabled in the Integrated Annual Report.

Proposed: Mr L von Zeuner

Seconded: Ms M Jean-Louis

The resolution was carried by 73 293 003 votes (88.54%) to 9 490 787 votes (11.46%) and 13 058 118 abstentions.

7.10 Non-binding advisory vote on the Remuneration Implementation Report

The meeting was requested to endorse the company's remuneration implementation report.

It was **RESOLVED** to endorse, through a non-binding advisory vote, the company's remuneration implementation report as set out in the remuneration implementation report tabled in the Integrated Annual Report.

Proposed: Mr L von Zeuner

Seconded: Ms M Jean-Louis

The resolution was carried by 72 658 909 votes (87.78%) to 10 117 472 votes (12.22%) and 13 065 527 abstentions.

8. CLOSURE

The Chair reiterated the Board's commitment to restore the company to good performance and to provide support to management in its turnaround strategy. He commended management on the good work done during the past financial year under difficult and

challenging circumstances and thanked Board members for their input and services during the year.

There being no further business, the Chair thanked everyone for their attendance and input and closed the meeting at 11:20.

Confirmed as a true reflection of the meeting:

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Chair

16 March 2021
Date