

## TONGAAT HULETT LIMITED

(Incorporated in the Republic of South Africa)

Registration number: 1892/000610/06

Share code: TON

ISIN: ZAE000096541

("Company" or "THL")



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## ANNOUNCEMENT RELATING TO THE EQUITY SUBSCRIPTION IN TERMS OF THE APPROVED BUSINESS RESCUE PLAN THROUGH A SPECIFIC ISSUE OF SHARES

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### INTRODUCTION

Shareholders are referred to the Stock Exchange News Service ("**SENS**") announcement released on Friday, 12 January 2024 confirming the adoption of the approved business rescue plan ("**the Approved Plan**"). Copies of the Approved Plan are available for download on the Company website at: [www.tongaat.com](http://www.tongaat.com) under the 'Business Rescue' tab. Defined terms from the Approved Plan refer, unless otherwise defined in this SENS.

The key feature of the Approved Plan is the acquisition of the Lender Group Claims and the subsequent utilisation of a portion of such Lender Group Claims by Vision Investments 155 Proprietary Limited (registration number 2023/178789/07) ("**Vision Investments**") to subscribe for new ordinary shares in THL ("**the Shares**") by way of an exchange of a portion of the Lender Group Claims for the newly issued Shares ("**Equity Subscription**"). The intention is that this will result in, *inter alia*:

- the continued trading of THL substantially in its pre-Commencement Date composition;
- the recapitalisation of the THL balance sheet, in particular the utilisation of a portion of the former Lender Group Claims to subscribe for equity; and
- the possible continued listing of THL on the JSE Limited ("**JSE**"), albeit with current Shareholders becoming minority Shareholders and Vision Investments holding the bulk of the listed shares in the Company following the abovementioned Equity Subscription.

Shareholders are advised that although it is the intention of Vision Investments and THL to retain THL's status as a listed company on the JSE, it is possible that the implementation of the Equity Subscription, and the potential mandatory offer that could result therefrom, may result in THL's shares being delisted from the JSE.

Shareholders are further advised that as part of the implementation of the Approved Plan, THL has entered into a subscription agreement ("**Equity Subscription Agreement**") with Vision Investments, and the following parties (collectively controlled by the Vision Parties detailed in the Approved Plan), none of which are related parties of THL as defined in the JSE Listings Requirements ("**JSE Requirements**"):

- Ngwenyama 62 Proprietary Limited, a private limited liability company incorporated in accordance with the laws of South Africa, with registration number 2023/203278/07;
- Keni 62 Proprietary Limited, a private limited liability company incorporated in accordance with the laws of South Africa, with registration number 2023/178882/07;
- Almoiz SA Industries Proprietary Limited, a private limited liability company incorporated in accordance with the laws of South Africa, with registration number 2023/178806/07;
- Tokwe One Proprietary Limited, a private limited liability company incorporated in accordance with the laws of South Africa, with registration number 2023/203285/07;
- Tokwe Two Proprietary Limited, a private limited liability company incorporated in accordance with the laws of South Africa, with registration number 2023/203278/07;
- Tokwe Three Proprietary Limited, a private limited liability company incorporated in accordance with the laws of South Africa, with registration number 2023/203299/07; and
- Terris Sugar South Africa Proprietary Limited, a private limited liability company incorporated in accordance with the laws of South Africa, with registration number 2023/185173/07.

### DETAILS OF EQUITY SUBSCRIPTION

The implementation of the Equity Subscription, by Vision Investments subscribing for Shares in the Company in exchange for a portion of the Lender Group Claims will result in Vision Investments owning 97.3% of the total issued share capital of the Company. The value of the portion of the Lender Group Claims extinguished,

by means of merger, for Vision Investments' subscription for Shares in THL ("**Equity Claim**") is determined as the total Lender Group Claims on the date of subscription less R3.6 billion. The Equity Claim amount as at the signature date of the Equity Subscription Agreement was R4 893 037 813.26. The Equity Claim is to be disposed of by Vision Investments to THL in exchange for the Shares. Pursuant to such exchange, the Equity Claim will be extinguished by means of merger against the issue of 4 864 887 494 Shares, which represent the maximum number of Shares available for issue, based on the current number of authorised but unissued Shares of THL.

Based on the value of the Equity Claim as at the signature date of the Equity Subscription Agreement, a deemed share price of 101 cents per Share can be mathematically calculated. However, the deemed Share price has not been arrived at through any empirical determination of fair value, given the financial distress faced by the Company, but rather as the total quantum of debt required to be extinguished, by means of merger, for the issuance of the maximum number of available new Shares in order to restore the Company to solvency.

It is the view of the Vision Parties that:

- in the circumstance as described above, a deemed Share price of 101 cents per Share is not representative of the fair value per Share; and
- if a mandatory offer were to be triggered following the implementation of the Equity Subscription, the mandatory offer price would be determined based on the fair value per Share and not on the deemed Share price of 101 cents per Share.

The 30-day weighted average trading price of the Shares is not available, as THL has been suspended from trading on the JSE as of July 2022.

The Equity Subscription will result in the issuance of Shares exceeding 30% of THL's current share capital, which necessitates a special resolution to be approved by at least a 75% majority of the votes cast in favour thereof by Shareholders in terms of section 41(3) of the Companies Act No 71 of 2008 ("**the Act**").

In addition, the Equity Subscription will be classified as a specific issue of Shares for cash in terms of paragraph 5.51(g) of the JSE Requirements, requiring an ordinary resolution to be approved by at least a 75% majority of the votes cast in favour thereof by Shareholders.

## **SUSPENSIVE CONDITIONS**

The implementation of the Equity Subscription shall be subject in its entirety to, *inter alia*, the fulfilment or waiver of the following suspensive conditions ("**Suspensive Conditions**"):

- the passing of all resolutions (of whatsoever nature) required to give lawful effect to each of the agreements required to implement the Equity Subscription;
- the execution of the written agreements governing the concurrent creditor dividend escrow arrangements and such agreements becoming unconditional in accordance with their terms;
- the execution of the written agreements governing the SASA escrow arrangements and such agreements becoming unconditional in accordance with their terms;
- the consent of the applicable Competition Authorities to the Equity Subscription and the change of control of the THL Group resulting therefrom and insofar as such consent is subject to the fulfilment of any terms and/or conditions, imposed by the Competition Authorities, that such terms and conditions are acceptable to the parties affected thereby and that such consent becomes unconditional;
- to the extent legally required, the passing of an ordinary resolution by the Shareholders, waiving the requirement for a mandatory offer to be made by the Vision Parties to any minority Shareholders of THL, to acquire all or a portion of the Shares held by such minority Shareholders, in accordance with regulation 86(7) of the Companies Regulations;
- the Takeover Regulation Panel ("**TRP**") exempting the Vision Parties from any obligation to make a mandatory offer to existing Shareholders of THL consequent upon the Equity Subscription, on the basis that the majority of such Shareholders will have waived their entitlement to be made the mandatory offer by resolution passed by them in accordance with regulation 86(4) of the Companies Regulations;
- insofar as the above suspensive condition is waived by all the parties to the Equity Subscription Agreement and the Vision Parties are required by the TRP to make a mandatory offer to minorities which is subject to the fulfilment of any terms and/or conditions imposed by the TRP, the Vision Parties agree to make such mandatory offer provided the terms and conditions so imposed are acceptable to all the parties of the Equity Subscription Agreement affected thereby, and such conditions are fulfilled;

- to the extent legally required, the consent of the Financial Surveillance Department of the South African Reserve Bank to the transactions contemplated in the Equity Subscription Agreement; and
- a circular being posted by THL to its Shareholders seeking approvals from such Shareholders to enable THL to proceed with and implement the Equity Subscription and the Shareholders approving the resolutions proposed pursuant to such circular.

## **CIRCULARS TO SHAREHOLDERS**

Shareholders should note that all relevant regulations are being considered, including the Act, Companies Regulations, the JSE Requirements and the requirements of the Competition Authorities in the relevant jurisdictions.

A circular containing comprehensive details of the Equity Subscription, including a financial analysis and full details of the Suspensive Conditions, along with a notice convening a general meeting, will be distributed to Shareholders in due course to consider the Equity Subscription and to provide the required approvals for the Equity Subscription. Salient dates and times for the distribution of the circular and the general meeting will be published in due course.

The Equity Subscription may result in the Vision Parties', individually or collectively, acquiring more than 35% of the voting rights attaching to the Shares in terms of section 123 of the Act. In such event and in terms of section 123 of the Act, such a person(s) would be obliged to make a mandatory offer to the remaining Shareholders of THL or, in accordance with regulation 86(4) of the Companies Regulations, Shareholders may be requested to consider waiving their right to receive a mandatory offer.

Should a mandatory offer be triggered post receiving the requisite Shareholder approvals for the implementation of the Equity Subscription, a further circular will be distributed to Shareholders in terms of which Shareholders will be requested to consider either:

- a mandatory offer in terms of section 123 of the Act; or
- waiving their right to receive a mandatory offer in accordance with regulation 86(4) of the Companies Regulations.

Shareholders will be kept updated in this regard.

2 July 2024

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