

NIVEUS INVESTMENTS LIMITED  
(Incorporated in the Republic of South Africa)  
(Registration number: 1996/005744/06)  
Share code: NIV  
ISIN: ZAE000169553  
("Niveus" or "the Company")

## **PROPOSED DISPOSAL BY NIVEUS OF CERTAIN GAMING BUSINESSES AND UNBUNDLING OF GAMECO**

### **1. INTRODUCTION**

Shareholders are referred to the announcement released on the Stock Exchange News Service of the JSE ("**SENS**") by Niveus on 14 December 2016 ("**Initial Announcement**"), in which Niveus announced its intention to sell of all its interests in Vukani Gaming Corporation Proprietary Limited ("**Vukani**") and Galaxy Gaming and Entertainment Proprietary Limited ("**Galaxy**") and all their associated entities, trusts and businesses (collectively the "**Gaming Businesses**") to Tsogo Sun Holdings Limited ("**Tsogo**") ("**Discontinued Transaction**").

Pursuant to discussions with various Niveus shareholders after the publication of the Initial Announcement, the Company believes that it is appropriate to provide Niveus shareholders with the opportunity to separately retain, dispose of or increase their interest in the Gaming Businesses in a more direct manner without affecting their current interest in the other assets held by Niveus. Niveus and Tsogo have therefore agreed that the Discontinued Transaction will not be implemented in the manner proposed in the Initial Announcement.

Niveus' interests in the Gaming Businesses are currently held via its wholly-owned subsidiary, Niveus Invest 19 Limited ("**Gameco**"). The assets of Gameco include the entire issued share capital of Vukani, Galaxy and Niveus Invest 1 Proprietary Limited, and loan claims against the aforementioned subsidiaries. Niveus holds 460,000,100 ordinary shares in Gameco.

Niveus has elected to rather distribute certain of its shares in Gameco to its shareholders, *pro rata* to their shareholding in Niveus, subject to the terms set out below.

### **2. GAMECO UNBUNDLING**

Subject to the fulfilment of certain conditions, Niveus will distribute 93,75% of its shareholding in Gameco to its shareholders *pro rata* to such shareholders' shareholding in Niveus as at the record date of the unbundling ("**Unbundling**"), subject to applicable laws.

It is anticipated that Niveus shareholders will receive 3.62 Gameco shares for every 1 Niveus share held on the record date of the Unbundling, provided that the ratio may change if the number of Niveus or Gameco shares in issue changes prior to the record date of the Unbundling. The final ratio will be disclosed in the circular to be issued to Niveus shareholders in due course.

### **3. CONDITIONS PRECEDENT TO THE UNBUNDLING**

The Unbundling will be subject to the fulfilment (or waiver by Niveus to the extent legally permitted) of certain conditions precedent, which would include the following:

- that Niveus shareholders approve the Unbundling in terms of the listings requirements of the JSE ("**JSE Listings Requirements**");
- that the Niveus board of directors approve the Unbundling in accordance with section 46 of the Companies Act, 2008 ("**Act**") and the JSE Listings Requirements;
- that Niveus obtains any and all required statutory and regulatory approvals for the implementation of the Unbundling on such conditions as are acceptable to Niveus, including specifically the JSE and the Takeover Regulation Panel ("**TRP**");
- that the Niveus board is satisfied that the terms of the agreement to be concluded between Hosken Consolidated Investments Limited ("**HCI**") and Tsogo (as more fully described in 6

below) are binding on Tsogo, that Tsogo is obliged make an offer to minority shareholders of Gameco (including Niveus) pursuant to the completion of the Tsogo Transaction and that the terms of that offer provides Gameco shareholders with the Cash Based Alternative as detailed in 6;

- the fulfilment of the conditions precedent to the Tsogo transaction in 8 below, save for the condition precedent requiring that the Unbundling is implemented.

Any of the above conditions precedent may be waived by Niveus (to the extent legally permissible). The full list of conditions precedent will be included in the circular to be distributed to Niveus shareholders in due course.

#### 4. RATIONALE FOR THE UNBUNDLING OF GAMECO

The rationale for the proposed unbundling of Gameco to the current Niveus shareholders is to offer Niveus shareholders the opportunity to separately retain, dispose of or increase their interest in the Gaming Businesses without affecting their current interest in the other assets held by Niveus. The Unbundling grants Niveus shareholders more flexibility with regard to the management of their interests in Niveus and Gameco and a more direct interest in the Niveus gaming assets.

#### 5. CLASSIFICATION

The Unbundling is regarded as a specific payment to shareholders in terms of paragraph 5.85 of the JSE Listings Requirements and requires the approval of the Niveus shareholders by an ordinary resolution.

The Unbundling may also constitute the disposal of the greater part of the assets or undertaking of Niveus in terms of section 112 of the Act and require the approval of shareholders by a special resolution and the TRP in compliance with the provisions of section 115 of the Act. The board of directors of Niveus has retained the right to make the Unbundling conditional on a maximum threshold of shareholders that exercise their appraisal rights in accordance with section 164 of the Act. The threshold will *inter alia* be determined by the cash resources available to the group to satisfy any claims under section 164.

#### 6. PROPOSED TSOGO TRANSACTION

Shareholders are also advised that Niveus' majority shareholder and holding company, HCI and Tsogo have reached an in principle agreement subject to conditions, regarding the terms upon which Tsogo will acquire HCI's entire interest in Gameco post the Unbundling, which as at the date hereof is estimated to be 225 445 352 Gameco shares, in exchange for ordinary shares in Tsogo at a ratio of 1 Tsogo share for every 2,875 Gameco shares disposed of by HCI ("**Tsogo Transaction**").

Subject to fulfilment of the conditions precedent to the Tsogo Transaction in 8 below, Tsogo has furthermore agreed with HCI to make a voluntary offer to all shareholders of Gameco (other than HCI) ("**Minority Shareholders**") to acquire their shareholding in Gameco, which as at the date hereof is estimated to be 234 554 748 Gameco shares, in exchange for Tsogo shares ("**Minority Offer**" or "**Share Based alternative**") at a ratio of 1 Tsogo share for every 2.875 Gameco shares disposed of by Minority Shareholders.

Tsogo will also provide a "Cash Based Alternative" to the Minority Shareholders, other than Niveus, in terms of which such shareholders will be entitled to elect to dispose of their Gameco shares for a cash consideration of R9.74 per Gameco share (as opposed to receiving Tsogo shares), which equates to a floor price of R28 per Tsogo share. Tsogo has limited the maximum aggregate consideration payable in respect of Gameco shareholders electing the Cash Based Alternative to R1,2 billion, equating to the 123 214 286 Gameco shares sold. Tsogo will require irrevocable commitments to be provided by Minority Shareholders in respect of 111 340 436 shares, who will agree not to accept the Cash Based Alternative if applications are received electing the Cash Based Alternative in respect of 123 214 286 GameCo shares or more.

Minority Shareholders who wish to accept the Cash Based Alternative will be required to make their election within 30 days of the posting of the offer circular, or such other reasonable time period as may be stated in the offer circular (as agreed with the TRP), provided that the date of election will not be earlier than 14 days of the publication of the Tsogo results. Minority Shareholders who make the election to accept the Cash Based Alternative will not be able to change such an election to accept the Cash Based Alternative, which election shall be irrevocable.

The Company and Gameco will require that Tsogo undertakes to make application to the JSE to list Gameco within a 12 month period after the closing date of the Minority Offer if not less than 20% of the issued shares of Gameco is held by shareholders other than Tsogo pursuant to the completion of the Minority Offer.

## 7. CLAWBACK OFFER

The 28 750 006 shares in Gameco which are not distributed by Niveus in terms of the Unbundling will be sold to Tsogo in terms of the Minority Offer, in exchange for Tsogo shares. Should the Minority Offer be implemented, Niveus shall grant Tsogo the right to clawback the Tsogo shares received by Niveus in terms of the Minority Offer in the event that the requisite regulatory approvals required to operate electronic bingo terminals in the KwaZulu Natal province are not obtained by the Gambling Businesses by 31 March 2020 ("Clawback Offer"). The remaining terms of the Clawback Offer are yet to be finalized with Tsogo.

## 8. CONDITIONS PRECEDENT TO THE TSOGO TRANSACTION

The Tsogo Transaction is subject to the fulfilment (or waiver by the parties, to the extent legally permitted) of conditions precedent, including the following ("**Conditions Precedent**"):

- the completion of the Unbundling;
- that Tsogo concludes, and is satisfied with the results of a due diligence investigation in respect of the Gameco, particularly including a review of the earnings of Gameco for the financial year ended 31 March 2017, which due diligence investigation is expected to be concluded by no later than 31 May 2017;
- that the Tsogo Transaction be approved by a subcommittee of independent directors of Tsogo;
- the independent expert appointed by Gameco to assess the Minority Offer, confirms that the Minority Offer is fair and reasonable to Minority Shareholders;
- the independent board appointed by Gameco to assess the Minority Offer, confirms that the Minority Offer is fair and reasonable to Minority Shareholders and recommends that Minority Shareholders accept the offer;
- that final formal written transaction agreements are concluded between Tsogo and HCI in relation to the Tsogo Transaction;
- that Tsogo and Niveus conclude a written agreement recording the terms of the Clawback Offer;
- Irrevocable undertakings from shareholders representing not less than 73.21% of the shares in Gameco are obtained in terms of which such shareholders elect to receive shares (as opposed to the Cash Based Alternative) in the event that aggregate consideration payable to shareholders who elect the Cash Based Alternative in terms of the Minority Offer would exceed R1,2 billion; and
- that the parties obtain any and all required statutory and regulatory approvals for the implementation of the Tsogo Transaction on such conditions as are acceptable to HCI and Tsogo to the extent applicable.

The Conditions Precedent must be fulfilled by not later than 31 July 2017, which date may be extended by mutual consent between the parties.

## 9. EFFECTIVE DATE

The effective date of the Unbundling and Tsogo Transaction will be the 1st business day of the month following the date on which the last of the Conditions Precedent is fulfilled or waived.

Gameco shall be entitled to distribute all profits and net cashflow of GameCo to Niveus (in its capacity as the sole shareholder of Gameco) for the period up to the effective date.

#### 10. **CIRCULAR**

A circular containing the full details of the Unbundling, incorporating a notice convening the required Niveus general meeting, will be posted to shareholders in due course and the salient dates and times of the Unbundling, including the date of the general meeting, will be announced on SENS once the circular has been posted.

Cape Town  
14 March 2017

Sponsor: PSG Capital

Legal adviser: ENSafrica