



**Nampak**  
packaging excellence

# **NAMPAK LIMITED**

# **BOARD CHARTER**

28 November 2017

Revised: 5 February 2019

## 1. INTRODUCTION

- 1.1 The board of directors of Nampak Limited (“the Company”) (hereinafter referred to as “the Board”) has prepared this Charter in accordance with the principles contained in the King IV Report on Corporate Governance for South Africa 2016 (“King IV<sup>TM</sup>”). The Charter is subject to the provisions of the Companies Act No 71 of 2008 (“the Companies Act”), the Company’s memorandum of incorporation (“MOI”), the Listings Requirements of the JSE Limited (“Listings Requirements”) and any other applicable laws or regulations.
- 1.2 This Board Charter is not intended to replace or amend the MOI in any way whatsoever. In the event of a conflict between the MOI and the Board Charter, the provisions of the MOI shall prevail.

## 2. PURPOSE

The purpose of this Charter is provide an overview of:

- 2.1 the roles, responsibilities and powers of the Board, the individual directors and the officials and executives of the Company;
- 2.2 the powers delegated to various Board committees of the Company; and
- 2.3 the policies and practices of the Board in respect of matters such as corporate governance, declarations and conflicts of interest, trading by directors in the securities of the Company, meeting procedures, composition of the Board and the nomination, appointment, induction, training and evaluation of directors and members of Board committees.

## 3. COMPOSITION OF THE BOARD, GENDER AND RACE DIVERSITY POLICY, APPOINTMENT, ROTATION AND INDEPENDENCE

- 3.1 The Board should at all times be suitably constituted and do everything necessary to appropriately fulfil its role and responsibilities.
- 3.2 The Board may determine the number of directors on the Board at any time, subject to the proviso that the minimum number of directors shall be six (6)<sup>1</sup>.
- 3.3 The Board comprises a balance of executive and non-executive directors, with a majority of non-executive directors. A majority of the non-executive directors must be independent.
- 3.4 In reviewing independence, the Listings Requirements, the Companies Act and King IV will be considered. In particular, King IV provides that a director can be determined to be independent if, when judged from the perspective of a reasonable and informed third party, that the director has no interest, position, association or relationship which is likely to unduly influence or cause bias in decision-making in the best interests of the Company.
- 3.5 The directors may elect a Chairman, Deputy Chairman and/ or Lead Independent non-executive director, and determine the period for which they are to hold office.
- 3.6 The Board must appoint a Chief Executive Officer (“CEO”) and an executive financial director/ Chief Financial Officer (“CFO”).
- 3.7 The Board is empowered to fill vacancies on the Board<sup>2</sup>.

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<sup>1</sup> See clause 28.1 of the MOI.

<sup>2</sup> See clause 28.3 of the MOI.

- 3.8 Only individuals with sound ethical reputations and business or professional expertise, and who have sufficient time to effectively fulfil their role as director, will be considered for appointment to the Board.
- 3.9 Individuals with material enduring conflicts of interest with the Company, or any of its direct or indirect subsidiaries (together referred to as “the Group”), that cannot be reasonably managed by the normal methods of declaration of interests and temporary recusal from meetings, will not be considered for appointment.
- 3.10 The Board recognises the benefits of having a diverse Board and appreciates that diversity at Board level is an essential component for sustaining a competitive advantage.
- 3.11 Directors are appointed through a formal process and the Nominations and Remuneration Committee assists with the process of identifying suitable candidates to be proposed to the Board and shareholders. The Nominations and Remuneration Committee also assists with the review of the effectiveness of the Board, which includes, amongst others, its composition.
- 3.12 Race, gender and age diversity; as well as relevant skills and expertise, enhance the composition of a truly diverse Board. It is the policy of the Board that all facets of diversity will be considered in determining the optimal composition of the Board and, where possible, be balanced appropriately. All Board appointments are made on merit, having due regard for the benefits of diversity, including gender and race, which the Board as a whole requires to be effective.
- 3.13 The Nominations and Remuneration Committee may agree measurable objectives for achieving diversity on the Board that are appropriate for the Company and recommend them to the Board for adoption. Achievement against these objectives will be disclosed in the integrated report.
- 3.14 Directors appointed by the Board, retire as directors at the first subsequent annual general meeting (“AGM”) unless elected at such shareholder meeting<sup>3</sup>. One-third of directors (excluding the CEO and CFO) must retire at each AGM. The directors who retire shall be those that have been the longest in office since their last election. Retiring directors may be re-elected provided they are eligible<sup>4</sup>. Notwithstanding anything contained in the MOI, if at the date of the AGM, any director has held office for a period in excess of three years or longer since his last election or appointment, he shall retire at such AGM, either as one of the directors up for rotation or additionally thereto.
- 3.15 Executive directors are required to retire when they cease to hold executive office for any reason.<sup>5</sup> Executive directors retire as members of management at the age of 63 (sixty-three), unless the Board agrees to a later retirement age in the interests of the Company. Such extensions will only be agreed to in very exceptional circumstances and will not be for long periods of time.
- 3.16 This Charter is considered an integral part of the conditions of appointment of all directors and should be referenced in letters of appointment.

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<sup>3</sup> See clause 28.3 of the MOI.

<sup>4</sup> See clause 29 of the MOI for greater clarity on director rotation.

<sup>5</sup> See clause 33.3 of the MOI.

## 4. DEVELOPMENT AND INDUCTION OF DIRECTORS

- 4.1. A formal induction program is established for new directors which includes the opportunity for new directors to visit key operations. Training is also provided to individual directors on request.
- 4.2. Training will be provided to individual directors on request and directors may be developed through mentorship and professional development programmes.
- 4.3. Continuing professional development programmes are implemented which ensure that directors are continually appraised of new developments and changes in Nampak's business environment.

## 5. ROLES AND RESPONSIBILITIES

### 5.1 Shareholders and shareholder meetings

- 5.1.1 The matters reserved for decision-making by the shareholders of the Company are set out in the MOI and the Companies Act. A matter reserved for decision-making by the shareholders is considered by the Board before it is recommended to the shareholders for decision-making. The Board will, where appropriate, provide the shareholders with its recommendation and relevant material information in respect of resolutions proposed for shareholder approval.
- 5.1.2 It is Company policy to accurately disclose Company information to shareholders and potential investors in such a way that the shareholders are apprised of all material aspects of the business of the Company and its direct and indirect subsidiaries ("Group companies").
- 5.1.3 Directors and executive management are expected to attend shareholders' meetings. The Chairmen of all Board committees are expected to be available at the Company's AGM to respond to relevant questions or queries.
- 5.1.4 Proceedings at meetings of shareholders are governed by the provisions of the Companies Act and the MOI.

### 5.2 The Board

#### General powers

- 5.2.1 The role, function and powers of the Board, the directors and committees and its relationship with other Group companies and joint ventures are determined by law, the MOI of the Company, agreements such as shareholders' agreements (where relevant), best practices and decisions and policies of the Board.
- 5.2.2 The Board is responsible for steering the Company and setting its strategic direction<sup>6</sup>. In managing or directing the affairs of the Company, the Board has authority to exercise all of the powers and perform any of the functions of the Company except to the extent that the Companies Act or MOI provide otherwise<sup>7</sup>.
- 5.2.3 The Board accordingly has the power to make any decision in respect of the Company, which has not been specifically reserved for decision-making by the

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<sup>6</sup> King IV™.

<sup>7</sup> Section 66 Companies Act.

shareholders. This power includes the power to exercise the rights as direct or indirect shareholder of Group companies.

- 5.2.4 The Board exercises its powers responsibly:
- a) in the best interests of the Company with due regard to the interest of stakeholders of the Company; and
  - b) in compliance with the requirements of the law, the Listings Requirements and principles of sound corporate governance.

**The roles and responsibilities of the Board are to:**

- 5.2.5 retain full and effective control over the Company, bringing independent, informed and effective judgment to bear on material decisions of the Company and Group companies;
- 5.2.6 provide effective and ethical leadership in the best interests of the Company;
- 5.2.7 act as the focal point for, and custodian of, corporate governance by managing its relationship with management, the shareholders and other stakeholders of the Company along sound corporate governance principles;
- 5.2.8 appreciate that strategy, risk, performance and sustainability are inseparable and to give effect to this by:
- a) contributing to and approving the strategy of the Company, including the short, medium and long-term strategic direction;<sup>8</sup>
  - b) satisfying itself that the strategy and business plans do not give rise to risks that have not been thoroughly assessed by management;
  - c) identifying key performance and risk areas;
  - d) ensuring that the strategy will result in sustainable outcomes; and
  - e) considering sustainability as a business opportunity that guides strategy formulation;
- 5.2.9 ensure that the Company is and is seen to be a responsible corporate citizen by having regard to not only the financial aspects of the business of the Company but also the impact that business operations have on the environment and the society within which it operates;
- 5.2.10 determine the Company's values and ensure that the Company's ethics are managed effectively;
- 5.2.11 ensure the governance of risk with the support of the Audit and Risk Committee;
- 5.2.12 exercise ongoing oversight of information and technology governance, delegated to the Information Management Steering Committee (comprising the Group Executive Committee ("GEC") and the Chief Information Officer) which shall report relevant risks and other material matters to the Board and its committees;

<sup>8</sup> For the purposes of this section short-term means: 1 to 2 years; medium-term means: 2 to 4 years; and long-term means: 5 years or longer.

- 5.2.13 monitor the Group's compliance with applicable laws and non-binding rules and standards with reference not only to the obligations they create but to the rights and protections they afford, and ensure that the Company and Group companies are governed effectively in accordance with corporate governance best practices;
- 5.2.14 ensure that there is an effective risk-based internal audit function;
- 5.2.15 ensure that shareholders are equitably treated, that the interests of minority shareholders are adequately protected and ensure that disputes are resolved as effectively, efficiently and expeditiously as possible;
- 5.2.16 commence business rescue proceedings as soon as the Company is financially distressed;
- 5.2.17 ensure that the Company has appropriately constituted, effective Board committees as required by the Companies Act, MOI and such best corporate governance practices as the Company chooses to adopt; and
- 5.2.18 govern the disclosure control processes of the Company including ensuring the integrity of the Company's integrated report<sup>9</sup> and reporting on the effectiveness of the Company's system of internal controls.

### 5.3 The Chairman

The Chairman is elected by the directors and is a non-executive director of the Board with no executive or management responsibilities. The Chairman provides leadership at Board level, represents the Board to the shareholders and is responsible for ensuring the integrity and effectiveness of the Board and its committees. The Chairman is also the Chairman of the meetings of shareholders.

In particular, the Chairman will:

- 5.3.1 ensure the effective operation of the Board and its committees in conformity with the highest standards of corporate governance by setting an ethical tone for the Board and the Company and providing overall leadership to the Board while being cognisant of the individual duties of Board members;
- 5.3.2 ensure effective communication with shareholders, host governments and other relevant constituencies and that the views of these groups are understood by the Board;
- 5.3.3 oversee the formal succession plan for the Board, the CEO and the CFO;
- 5.3.4 be accessible to the CEO to support the CEO in the development of strategy and to provide counsel and advice in respect of all material matters affecting the Company and the Group and to consult with the other directors promptly when appropriate;
- 5.3.5 be involved, through his membership of the Nominations and Remuneration Committee, in the identification and selection of directors;
- 5.3.6 play an active part in the formulation, in consultation with the CEO and Company Secretary, of an annual work plan for the Board and the setting of the agenda for

<sup>9</sup> King IV defines integrated reporting as "a process founded on integrated thinking that results in a periodic integrated report by an organisation about value creation over time. It includes related communications regarding aspects of value creation. An integrated report could be a standalone report which connects the more detailed information in other reports."

Board meetings, ensuring that material matters in respect of the business and governance of the Company or Group are tabled at Board meetings;

- 5.3.7 preside over Board meetings, setting the style and tone of Board discussions to promote constructive debate and effective decision-making;
- 5.3.8 manage conflicts of interest and act as a link between the Board and management, particularly the Board and the CEO;
- 5.3.9 ensure that directors play a full and constructive role in the affairs of the Company and take a leading role in the process for removing non-performing or unsuitable or over-committed directors from the Board;
- 5.3.10 oversee the evaluation of the Board's effectiveness and performance ensuring that formal performance evaluations of the Board, Board committees and individual directors are conducted at least every two years and that every alternate year, opportunity is provided for reflection and discussion by the Board of its performance and that of its committees, its chair and its members as a whole;
- 5.3.11 ensure that all Board committees are properly established, composed and operated;
- 5.3.12 in consultation with the Board, determine the performance objectives of the CEO;
- 5.3.13 establish a harmonious and open relationship with the CEO;
- 5.3.14 ensure that good relations are maintained with the Company's major shareholders and strategic stakeholders; and
- 5.3.15 attend to administrative acts in respect of the CEO as required.
- 5.3.16 The Chairman:
  - a) may not be a member of the Audit and Risk Committee;
  - b) may be a member, but not chairman of the Nominations and Remuneration Committee; and
  - c) may be a member, but not the chairman, of the Social, Ethics and Transformation Committee.

The evaluation of the Chairman's performance will be led by the Lead Independent Director or another independent non-executive director appointed by the Board at least every two years. The evaluation should take into account the Chairman's performance against formal criteria and other external chairmanships to determine whether the Chairman has the capacity to discharge his duties to the Company.

#### 5.4 **Lead Independent Director**

The Board may appoint a Lead Independent Director to assist the Chairman in the execution of his duties and such other functions as the Board may wish to delegate to the Lead Independent Director. The Lead Independent Director's appointment shall be reviewed and confirmed annually.

Where the Chairman is absent or unable to perform his duties or where the independence of the Chairman is questionable or impaired, the Lead Independent Director must serve in this capacity for as long as the circumstances that caused the Chairman's absence, inability or conflict exists.

The Lead Independent Director shall have the following responsibilities and accountabilities:

- 5.4.1 Preside at all meetings of the Board at which the Chairman is not present or where the Chairman is conflicted, including any sessions of the independent directors.
- 5.4.2 Assist the Board to deal with management of any actual or perceived conflicts of interest that arise on the part of the Chairman.
- 5.4.3 Call additional meetings of the non-executive directors, if required.
- 5.4.4 Facilitate open discussions during Board meetings, any executive sessions and outside of Board meetings.
- 5.4.5 Perform all such functions that cannot be performed by the Chairman due to his absence or the existence of a conflict of interest.
- 5.4.6 Perform any duties as delegated by the Board from time to time.
- 5.4.7 Serve as the principal liaison between the non-executive directors and the Chairman of the Board without inhibiting direct communication between them.
- 5.4.8 Communicate to the Chairman and management, where necessary, any decisions reached, suggestions, views or concerns expressed by the non-executive directors in executive sessions or outside of Board meetings.
- 5.4.9 If appropriate, and in coordination with the Chairman and management, be available for consultation and direct communication with major shareholders.

## 5.5 Chief Executive Officer

- 5.5.1 The CEO is delegated with authority from, and accountable to the Board for the development and successful implementation of the Group strategy and the overall management and performance of the Company.
- 5.5.2 The CEO is supported by the GEC.
- 5.5.3 The CEO:
  - a) provides executive leadership;
  - b) must inform the Board of any material matter which may have a significant impact on the financial results or substantially impact the reputation of the Group;
  - c) may sub-delegate any of the powers delegated to him; and
  - d) may exercise power and authority on, or sub-delegate, any matter necessary for the effective management and performance of the Group that is not specifically reserved for the Board or the Company's shareholders.
- 5.5.4 The CEO's role is formalised and his performance is evaluated against specific performance criteria.
- 5.5.5 The CEO may not be a member of the Audit and Risk Committee or the Nominations and Remuneration Committee, but may attend by invitation and

recuse himself when conflicts arise, particularly when his performance and remuneration are discussed.

5.5.6 The Board should ensure that a succession plan is in place for the CEO.

## 5.6 The rights and duties of individual directors

5.6.1 The Board exercises its functions collectively and no single director has any authority to perform any act on behalf of the Company unless specifically authorised or requested by the Board. Directors are jointly accountable for the decisions of the Board.

5.6.2 Directors' duties, standards of conduct and liabilities are detailed in the Companies Act<sup>10</sup>. Directors have a legal obligation to act in the best interests of the Company, to act with due care, diligence and skill in discharging their duties as directors, to declare and avoid conflicts of interest with the Company and the Group and to account to the Company for any advantages gained in discharging their duties on behalf of the Company.

5.6.3 Directors may, at any time, request a meeting with the Chairman and will individually meet with the Chairman on an annual basis to discuss the Board and committee matters. The Chairman will invite non-executive directors from time to time to indicate whether they have a need to meet as a group without him/her and/or the executive management.

## 5.7 Company Secretary

5.7.1 The Board should be assisted by a competent, suitably qualified and experienced Company Secretary. The decision to appoint or remove the Company Secretary is a Board decision.

5.7.2 The Company Secretary provides dedicated support for the Board and is a central source of guidance and support to the Board and within the Company on matters of good governance and changes in legislation. The Company Secretary will consult regularly with directors to ensure that they receive any necessary information.

5.7.3 The Board is aware of the duties of the Company Secretary as detailed in the Companies Act and empowers her to fulfil those duties. As gatekeeper of good governance, the Company Secretary maintains an arm's length relationship with the Board and its directors as far as is reasonably possible.

5.7.4 The Company Secretary is not a director of the Company and has a direct channel of communication to the Chairman.

5.7.5 The Board must consider and satisfy itself, on an annual basis, on the competence, qualifications and experience of the Company Secretary and report thereon in the integrated report.

5.7.6 The Company Secretary is accountable to the Board to:

a) ensure that Board procedures are followed and reviewed regularly;

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<sup>10</sup> See sections 76 and 77 Companies Act.

- b) ensure that the applicable rules and regulations for the conduct of the affairs of the Board as directed by the provisions of the MOI and the Board Charter are complied with;
- c) maintain statutory records in accordance with legal requirements;
- d) provide the Board as a whole, as well as individual Board members, with guidance as to how their responsibilities should be properly discharged in the best interest of the Company and on good governance. The Company Secretary shall be authorised to obtain external expert advice, at the Company's expense, should she deem it necessary in order to effectively fulfil this responsibility;
- e) keep abreast of, and inform the Board of current corporate governance thinking and practice;
- f) assist with the appointment of directors;
- g) advise the Board on all legal and regulatory matters, including legal frameworks and processes;
- h) provide advice with respect to all regulatory filings and public disclosures relating to the Company's governance processes;
- i) assist with director induction and training programmes;
- j) ensure that the Board Charter and the charters of Board committees are reviewed annually or more regularly if required and are kept up to date;
- k) prepare and circulate Board and Board committee papers and ensure the preparation and circulation of minutes of Board and committee meetings;
- l) elicit responses, input, feedback for Board and Board committee meetings;
- m) assist in drafting annual work plans;
- n) assist with the evaluation of the Board, committees and individual directors; and
- o) ensure compliance with the Companies Act, the MOI and the JSE Listings Requirements.

## **6. DELEGATION AND BOARD COMMITTEES**

6.1 Without detracting in any way from the general powers of the Board, the Board may from time to time determine in terms of the governance framework and delegated authorities, which matters are:

6.1.1 reserved for final decision-making by the Board or Board committees; or

6.1.2 require the Board's or Board committees' consent before a final decision is made.

6.2 In terms of the MOI,<sup>11</sup> the Board is empowered to constitute Board committees and to delegate powers to such committees.

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<sup>11</sup> See clause 34 of the MOI.

- 6.3 The Board delegates certain functions without abdicating its own responsibilities.
- 6.4 The Board delegates authority, not expressly reserved for the Board and its committees, to the CEO, who shall be accountable to the Board, subject to the obligation to report all material matters to the Board.
- 6.5 The CEO shall be entitled to delegate his duties, power and authority to such members of management as is appropriate. Delegating authority to management does not discharge the CEO of his duties and responsibilities.
- 6.6 There shall be transparency and full disclosure by the Board committees to the Board, except where the Board has mandated the committee otherwise.
- 6.7 Delegation is formal and involves:
- 6.7.1 formal written charters are established and approved by the Board for each committee of the Board;
  - 6.7.2 the committees' charters are reviewed once a year; and
  - 6.7.3 the committees are appropriately constituted with due regard to the skills required by each committee;
- 6.8 The Board has the following committees:
- 6.8.1 Audit and Risk Committee;
  - 6.8.2 Nominations and Remuneration Committee;
  - 6.8.3 Social, Ethics and Transformation Committee; and
  - 6.8.4 Investment Committee

Each Committee is subject to its own charter, which outlines the terms of reference of such committee.

## **7. BOARD GOVERNANCE**

- 7.1 The Company complies with all applicable corporate legislation. It also applies the principles and the majority of the recommended practices of King IV™ to the extent that they advance effective business leadership and governance in the Nampak environment. The Company's corporate governance practices are reviewed frequently and changed where appropriate in order to accommodate developments within the corporate governance environment.
- 7.2 The directors are entitled to have access to all relevant Company information and documents and to executive and senior management to assist them in the discharge of their duties and responsibilities to enable them to take informed decisions. The Company Secretary shall facilitate contact with senior management and ensure access to Company information.
- 7.3 The Board members are required to maintain and protect the confidentiality of information relating to the Company and its business.
- 7.4 Directors may seek independent professional advice, subject to prior consultation with the Chairman or in other appropriate circumstances, the Company Secretary.
- 7.5 All Board members shall be entitled to attend any committee meetings but shall not be

entitled to a fee in respect of meetings for committees of which they are not members.

## **8. MEETING PROCEDURES**

### **Attendance and Participation**

- 8.1 Directors must prepare thoroughly and use their best endeavours to attend all Board meetings. Board members are expected to be fully prepared for Board meetings and be able to participate fully, frankly and constructively in Board discussions and other activities and to bring the benefit of their particular knowledge, skills and abilities to bear in discharging their duties as directors.
- 8.2 Directors who are unable to attend Board meetings must convey a prior apology with reasons to the Chairman or Company Secretary.
- 8.3 The Company Secretary may in her discretion, authorise the use of audio or video conferencing facilities to make participation in a Board meeting possible should attendance in person not be possible.
- 8.4 If both the nominated Chairman of the Board and the Lead Independent Director are absent from a meeting, the members present must elect one of the members to act as Chairman.
- 8.5 Executive and senior management, assurance providers and professional advisors may attend meetings, but by invitation only and they may not vote.

### **Frequency**

- 8.6 The Board must hold sufficient scheduled meetings to discharge all its duties as set out in this Charter but subject to a minimum of four meetings per year at intervals of not more than three calendar months.
- 8.7 Meetings in addition to those scheduled may be held at the instance of any director.

### **Quorum**

- 8.8 A majority of directors must be present at a meeting to form a quorum.
- 8.9 Individuals who attend Board meetings by invitation may participate in discussions but do not form part of the quorum for Board meetings.

### **Agenda and minutes**

- 8.10 The Board must establish an annual work plan to ensure that all relevant matters are covered by the agendas of the meetings planned for the year.
- 8.11 A detailed agenda, together with supporting documentation, must be circulated, approximately 5 (five) business days prior to each meeting to the members of the Board and other invitees.
- 8.12 The minutes must be completed as soon as possible after the meeting and approved by the Board.

## Retention of meeting papers

- 8.13 All meeting papers and submissions made at the Board meeting are strictly confidential and directors may not circulate them to any other parties. Exceptions to this prohibition must be authorised by the Chairman or Company Secretary, as is appropriate.
- 8.14 Directors are expected to manage their security passwords providing electronic access to their meeting packs with due care and vigilance. A record of Board submissions and of material presented to the Board, shall be maintained and kept by the Company Secretary together with the minutes of meetings in line with the retention policy. Directors may arrange with the Company Secretary to obtain access to records of Board documentation and minutes if required by them in the course of discharging their duties as directors of the Company.

## Written Resolutions

- 8.15 It is Board policy to limit the use of written resolutions to instances where the resolution is a mere formality or where the matter requiring decision is of such an urgent nature that it cannot be deferred until the next Board meeting.
- 8.16 The Chairman, with the support of the Company Secretary, should consider whether an urgent special Board meeting would be a more appropriate decision-making procedure than a written resolution.
- 8.17 Notice of the matter to be decided by written resolution must be delivered to each member of the Board where possible.
- 8.18 Decisions taken by written resolution other than at a meeting are valid decisions of the Board if signed by a majority of directors<sup>12</sup>.

## 9. DISCLOSURE OF CONFLICT OF INTEREST

- 9.1 In terms of the Companies Act<sup>13</sup> and the MOI a director who has a personal financial interest in respect of a matter to be considered at a Board meeting, or knows that a related person has a personal financial interest in the matter:
- 9.1.1 must disclose the general nature of the interest before the matter is considered;
  - 9.1.2 must disclose all material information known to the director to the meeting;
  - 9.1.3 may disclose observations and insights relating to the matter if requested by the other directors to do so;
  - 9.1.4 may not be present when the matter is discussed, and may not participate in the consideration of the matter; and
  - 9.1.5 while absent from the meeting, is to be regarded as being present at the meeting for the purpose of determining whether sufficient directors are present to constitute a quorum for the meeting.
- 9.2 A director may disclose any personal financial interest in advance by delivering to the Company Secretary a notice setting out the nature and extent of the financial interest. The

<sup>12</sup> See clause 36 of the MOI.

<sup>13</sup> Section 75 of the Companies Act.

Company Secretary will submit all disclosures of interest to the Board at the first subsequent meeting.

- 9.3 A director who acquires a direct personal financial interest after an agreement or other matter has been approved by the Company, must promptly disclose the nature and extent of that interest to the Board.
- 9.4 Failure to disclose interest in compliance with the Companies Act will render decisions, transactions or agreements invalid, unless subsequently ratified by shareholders or a court.
- 9.5 Enduring material conflicts of interest are regarded by the Board as incompatible with the fiduciary duties of directors. Directors are appointed on the express understanding and agreement that they may be removed by the Board if and when they develop an actual or prospective material, enduring conflict of interest with the Company or a Group Company.

## **10. DEALING IN THE SECURITIES OF THE COMPANY**

- 10.1 All directors of the Company and its major subsidiaries are required to adhere to the Company's policy on dealing in the Company's securities, which is designed to prevent insider trading in terms of the Financial Markets Act, 2012.
- 10.2 In terms of the Listings Requirements, the Company must promptly issue a SENS announcement detailing all dealings in the securities of the Company by directors of the Company and its major subsidiaries. Accordingly, the Company Secretary must be notified of any dealing by a director in the securities of the Company.

## **11. PERFORMANCE EVALUATION**

- 11.1 A formal evaluation of the Board, its committees and individual directors, including the Chairman, must be performed, either externally facilitated or not, at least every two years. Every alternate year, opportunity is provided for reflection and discussion by the Board of its performance and that of its committees, its Chairman and its members as a whole.
- 11.2 The Lead Independent Director, or in the absence of a Lead Independent Director, an independent non-executive director appointed by the Board, shall ensure that the performance of the Chairman is evaluated and shall chair those portions of meetings at which the Chairman's performance appraisal is discussed.

## **12. GROUP COMPANIES**

- 12.1 As direct or indirect shareholder of Group companies, the Company exercises its shareholder's rights to ensure that the Company approves material decisions of its subsidiaries and that the Group's minimum requirements in respect of matters such as governance, internal controls, financial management, disclosure controls, risk management, legal compliance, safety, health and environmental management, internal audit, ethics management, human resource management, information management, stakeholder relationships and sustainability are complied with.

## **13. REVIEW OF THE CHARTER**

- 13.1 This Charter shall be reviewed by the Board annually.