

THUNGELA RESOURCES LIMITED
BOARD CHARTER

1. Introduction and Purpose

- 1.1 The Thungela Resources Limited (the **Company**) board of directors (the **Board**) is ultimately responsible for the effective governance and overall success of the Company group of companies (the **Group**) and its role is to provide leadership for the Group within a framework of prudent and effective controls which enables risks to be assessed and managed. The Board is responsible for the governance of compliance with all statutory and regulatory requirements and, in particular, the listing requirements of the Johannesburg Stock Exchange (**JSE**),¹ the listing rules of the London Stock Exchange (LSE) and serves as the focal point and custodian of corporate governance in the Company.²
- 1.2 The Group includes the Company and all entities that, from time to time, qualify directly or indirectly as subsidiaries of the Company.
- 1.3 The Board confirms its commitment to achieving high standards of corporate governance within the Group. This includes commitment to compliance with the King IV Report on Corporate Governance for South Africa, 2016 (the **King Code**), to the extent applicable. The Company discloses on its website how it applies the principles and recommendations encompassed in the King Code.³
- 1.4 This Board Charter is subject to the provisions of the Companies Act, 71 of 2008, as amended from time to time (**Companies Act**), the Company's Memorandum of Incorporation (**Mol**), the listings requirements of the JSE (**JSE Listings Requirement**), the listing rules of the LSE and the King Code, the approvals framework adopted by the Board and any other applicable laws and regulatory provisions. This Board Charter is not intended to replace or amend the Mol in any way whatsoever.
- 1.5 In accordance with the recommendations of the King Code, the Board has adopted this formalised Board Charter, to which reference will be made in the Company's annual report. This Board Charter has been implemented in order to:
- 1.5.1 identify and affirm the manner in which the role, powers and responsibilities of the Board and its various committees will be carried out, exercised and discharged,

¹ King IV principle 7, para 6.

² King IV principle 6.

³ Para 8.63 of the JSE Listings Requirements.

having regard to principles of good corporate governance, international best practice and applicable laws and regulatory provisions;

- 1.5.2 serve as a reference to new and existing directors;
- 1.5.3 ensure that good corporate governance is maintained throughout the Group in line with the requirements of the King Code and the principles of good corporate practice;⁴ and
- 1.5.4 set out the internal governance practices and procedures to support the Board's work in a manner that promotes efficient, objective and independent judgement and decision-making.
- 1.6 This Board Charter shall constitute and form an integral part of each Board member's appointment letter (in respect of that member's appointment to the Board) and, if such Board member is also a member of the board of any of the Company's subsidiaries, to the boards of its subsidiary companies (except to the extent that such subsidiary has its own board charter).

2. Board Structure and Composition

- 2.1 The Board shall comprise not less than such minimum number of directors as is required by the Companies Act, the JSE Listings Requirements, the LSE Listings Rules, and the Mol. The size and composition of the Board shall furthermore be determined subject to the Inclusion and Diversity Policy (**I&D Policy**), the approvals framework and any other applicable laws and regulatory requirements.
- 2.2 Each director shall be identified and selected for nomination by the Nominations and Governance Committee (**Nom & Gov Co**), the recommendation of which shall be subject to final approval by the Board. The Remuneration and Human Resources Committee (Rem & HR Co) will follow a transparent and formal process in recommending suitable candidates for the Board's consideration, as set out in the I&D Policy.⁵
- 2.3 Directors shall be appointed and removed by the shareholders of the Company in accordance with the applicable provisions of the Mol, the Companies Act and any other applicable laws and regulatory provisions.

⁴ King IV, principle 6.

⁵ Para 3.84(a) of the JSE Listings Requirements, King IV, principle 7 and King IV Supplement for Retirement Funds (Part 6.4) principle 7.

- 2.4 Subject to the Companies Act, the Board has the power to appoint directors (i) to fill a casual vacancy (being a vacancy on the Board where (i) the number of directors on the Board is less than the minimum number of directors prescribed by the Mol; or (ii) the number of directors on the Board is less than the number appointed by the shareholders) or (ii) as an addition to the Board (as contemplated in section 66(4)(a)(i) of the Companies Act)), subject to confirmation of such appointment by the shareholders at the next annual general meeting (AGM) of the Company.⁶
- 2.5 Only individuals with sound ethical reputations and business or professional acumen and who have sufficient time to effectively fulfil their role as Board member, will be considered for appointment to the Board. Individuals with material enduring conflicts of interest with the Company or any Group company that cannot be reasonably managed by the normal methods of declaration of interests and temporary recusal from meetings will not be considered for appointment.
- 2.6 The Board shall comprise:
- 2.6.1 a balance of non-executive and executive directors, of whom the majority shall be independent non-executive directors (INED);⁷ and
- 2.6.2 an appropriate number and mix of individuals to provide the necessary breadth and depth of knowledge, skills, experience, diversity and independence to objectively and efficiently meet the Board's responsibilities and objectives and to ensure that there is an adequate overall spread and level of knowledge, skills, experience, and diversity at board level and board committee level, which is commensurate with the nature, scale and complexity of the business and risks of the Company,⁸ which will be regularly reviewed and assessed by the Nom & Gov Co and the Nom & Gov Co will make recommendations which the Board will consider in respect of any adjustments that are deemed necessary to ensure the required mix of skills, experience, other qualities and diversity to ensure the effectiveness of these bodies.
- 2.7 The Company may deviate from the requirements in paragraph 2.6 only if circumstances justify an alternative board composition that still provides the independence and capacity needed to govern and prudently manage the Company's business and provided that any relevant approvals required for such a deviation, if any, have been obtained by the Company.

⁶ Section 66(4)(b) of the Companies Act.

⁷ King IV Principle 7 para 8.

⁸ King IV Principle 7 para 7.

- 2.8 The Board shall prepare and provide a report to the Broad-based Black Economic Empowerment (BBBEE) Commission on the Company's compliance with broad-based black economic empowerment, in accordance with the BBBEE Act, 53 of 2003 (**B-BBEE Act**), within 3 months after the yearend.⁹
- 2.9 The mandatory retirement age for non-executive directors will be 70 years, subject to any duly motivated exceptions approved by the Board.
- 2.10 The maximum tenure for non-executive directors is nine years, subject to any duly motivated exceptions approved by the Board.¹⁰
- 2.11 The Board may form committees consisting of directors that will be governed by their own separate committee terms of reference as more fully set out in paragraph 7 below.
- 2.12 The Board should have a minimum of two executive directors, being the Chief Executive Officer (**CEO**) and the Chief Finance Officer (**CFO**), in order to ensure that the Board has more than one point of direct interaction with management.¹¹
- 2.13 Following receipt of the Nom & Gov Co's recommendations, the Board should elect an independent non-executive director as Chairperson, who may not also be the CEO.¹²
- 2.14 The Board is the ultimate decision-making body of the Company, except in respect of matters reserved for shareholders.

3. **Role and Responsibilities of the Board**

The Board shall have the roles and responsibilities set out below (in addition to other roles and responsibilities set out elsewhere in this Board Charter).

- 3.1 Safeguarding and representing the interests of the stakeholders of the Company in perpetuating a successful and sustainable business that ensures the achievement of the Company's objectives. In the execution of its governance role and responsibilities, the Board should adopt a stakeholder-inclusive approach that balances the needs, interests and expectations of material stakeholders in the best interests of the organisation over time.¹³

⁹ Section 13G(2) of the B-BBEE Act.

¹⁰ King IV Principle 7, para 29.

¹¹ King IV Principle 7, para 9 and para 3.84 (c) and (g) of the JSE Listings Requirements.

¹² King IV Principle 7, para 31 and para 3.84(c) of the JSE Listings Requirements.

¹³ King IV, principle 16.

- 3.2 Acting with independence of mind in pursuing the best interest of the Company and its stakeholders.
- 3.3 Setting the Group's values and being a role model for and testing the ongoing adherence to the Company's values and culture, including by implementing a code of conduct that promotes integrity for the Board, senior management and other employees, defining therein acceptable and unacceptable behaviors, and which establishes the ethical tone and corporate culture of the Group. The Board shall take appropriate steps to disseminate a code of conduct throughout the Group, along with supporting policies.¹⁴
- 3.4 Ensuring that the Company is a responsible corporate citizen.¹⁵
- 3.5 Promoting an open and accountable environment in which employees who communicate concerns about illegal or unethical behaviour are properly protected from retaliation.
- 3.6 Setting and annually reviewing the business objectives of the Company and the strategic direction of the Company, taking into account the long-term financial soundness of the Company, the interest of shareholders, investors and stakeholders and the fair treatment of customers, and ensuring (i) appropriate resourcing levels to deliver performance; (ii) that sustainability considerations are effectively integrated and balanced to meet the strategic objectives; and (iii) that the business objectives and strategies of the Company are consistent with its broader stakeholder commitments.
- 3.7 Reviewing and confirming the adequacy of the Group's systems and frameworks including policies of governance, risk and compliance controls (including risk management and internal control systems and functions) that are in place and ensuring that it complies with the legislative obligations and codes of good practice that govern the Group.
- 3.8 Confirming the adequacy of the governance, risk and compliance systems and frameworks (including risk management and internal control systems and functions) to identify, measure, control and report on all key risk areas and key performance indicators of the Group.
- 3.9 Review the Group Remuneration Policy and Remuneration Report to ensure that it adequately addresses the remuneration and benefit principles and risks associated with it, and to ensure that it is reasonable taking into account the measurement of performance

¹⁴ King IV, principle 2 and King IV Supplement for Retirement Funds (Part 6.4) principles 1 and 2.

¹⁵ King IV principle 3 and King IV Supplement for Retirement Funds (Part 6.4) principle 3.

against pre-determined and agreed criteria and the laws and regulations applicable to the Group.¹⁶

- 3.10 Setting and overseeing the effective implementation of a remuneration and incentive model that demonstrably supports prudent decision making, is consistent with the Company's risk appetite and does not induce excessive or inappropriate risk taking.¹⁷
- 3.11 Ensure that the Company's assurance services and functions enable an effective control environment, and that these support the integrity of information for internal decision-making and of the organisation's external reports.¹⁸
- 3.12 Protecting the Group's financial integrity by reviewing and monitoring the performance of the business of the Group on the basis of, *inter alia*, quarterly management reports.
- 3.13 Set and implement governance arrangements to ensure reliable and transparent financial reporting for public and supervisory purposes. Ensuring that the Group's interim financial statements, annual financial statements and any other formal announcement satisfy the financial reporting standards and fairly state the affairs of the Group's business.
- 3.14 Reviewing the adequacy of the Group's information technology structure, architecture and processes and confirming that these do not impede the financial soundness of any of the companies in the Group.¹⁹
- 3.15 The Board has to ensure that the Group's responsible business policies have been consistently implemented and that the Group's responsible business strategy aligns with the Group's sustainability policies and purpose as well as overall strategy.²⁰
- 3.16 The Board must adopt and implement a approvals framework and will:
 - 3.16.1 regularly monitor the implementation of the approvals framework by the Board and the boards of Group companies;
 - 3.16.2 at least annually review the adequacy and effectiveness of the approvals framework;

¹⁶ King IV principle 14.

¹⁷ King IV principle 11.

¹⁸ King IV principle 15.

¹⁹ King IV principle 12.

²⁰ King IV principles 2 and 3.

- 3.16.3 adopt policies and codes of conduct for the governance of the Company's business that are materially aligned to the policies and processes set out in the approvals framework; and
- 3.16.4 ensure that the Group's subsidiary and associate companies over which the Board exercises ultimate management control or oversight abide by the provisions of the governance and/or delegation of authority framework and adopt policies and processes that are aligned to the policies and processes set out therein.
- 3.17 The Board should ensure that responsible investment is practiced by the Company and its subsidiaries to promote the good governance and the creation of value by the companies in which they invest.²¹
- 3.18 The Board should appreciate that the Company's core purpose, risks and opportunities, strategy, business model, performance and sustainable development are all inseparable elements of the value creation process.
- 3.19 The Board should ensure that reports issued by the Company enable stakeholders to make informed assessments of the Company's performance and its short, medium and long-term prospects.
- 3.20 The Board should serve as the focal point and custodian of corporate governance in the Company²² and each director must, in addition to any other requirements in terms of legislation (including to act in good faith, honestly, and reasonably, and to exercise due care and diligence in fulfilling his / her duties):
- 3.20.1 at all times comply with the fit and proper policy of the Company;
 - 3.20.2 act in the best interests of the Company and stakeholders;
 - 3.20.3 exercise independent judgement and objectivity in decision making, taking into account the interests of the Company and stakeholders;
 - 3.20.4 have the commitment necessary to fulfil his/her role, as demonstrated by, for example, a sufficient allocation of time to the affairs of the Company and reasonable limits on the number of directorships held within or outside the Group; and
 - 3.20.5 act without fear or favour, providing constructive and robust challenge of proposals and decisions and asking for information when the director considers it necessary.

²¹ King IV principle 17.

²² King IV principle 6.

- 3.21 Overseeing senior management and heads of control functions in accordance with any applicable laws, including monitoring whether:
- 3.21.1 the knowledge and expertise of senior management and heads of control functions remain appropriate to the nature of the Company's business and risk profile;
 - 3.21.2 senior management is managing the affairs of the Company in accordance with the strategies and policies set by the Board and the Board-approved risk appetite, values and culture, which monitoring shall be done at least quarterly;
 - 3.21.3 the policies and procedures set by the Board are being properly implemented by senior management and are operating as intended;
 - 3.21.4 senior management is promoting a culture of sound risk management, compliance and policyholder protection;
 - 3.21.5 senior management and heads of control functions provide the Board with adequate and timely information to enable it to carry out its duties and functions; and
 - 3.21.6 senior management and heads of control functions provide the relevant financial sector regulators and other stakeholders with the information required to satisfy the legal and other obligations applicable to the Company.
- 3.22 Regularly meeting with senior management and heads of control functions to discuss and review decisions made, information provided, and explanations given with respect to the business and operations of the Company.

4. **Reserve Powers of the Board**

All strategic and policy decisions are reserved for the Board and may not be delegated and, in particular (without limitation), the following matters:

4.1 **Strategy**

- 4.1.1 The approval of the Group's medium and long-term direction and strategy and the approval of any material changes to the strategy, whilst evaluating all key assumptions and business indicators on which the Group's strategic objectives and policies are based.²³
- 4.1.2 Any material change to the businesses carried on by the Company.

²³ King IV, principle 4.

- 4.1.3 The approval of the Company's annual business plans and budget.
- 4.1.4 Approval of any merger, acquisition or disposal which is categorized as a notifiable merger for purposes of the Competition Act, 89 of 1998, as amended.
- 4.1.5 Approval of the acquisition or disposal of any material business or the cessation of any material part of the business, having an estimated net worth, exceeding the limit as set out in the Group's approvals framework.
- 4.1.6 Any other matter as determined from time to time by the Board, including but not limited to matters that could or are likely to have a material effect on the Company's financial position, future strategy or reputation.
- 4.2 **Financial Matters**
 - 4.2.1 Approval of significant changes to the accounting policies or practices of the Company on recommendation of the Audit Committee.
 - 4.2.2 Approval of a dividend policy that allows the Company to meet shareholder expectations for dividends as well as maintain medium to long-term growth targets.
 - 4.2.3 Declaration or recommendation of distributions in accordance with the Mol, the Companies Act and as per the Company's dividend policy.
 - 4.2.4 The issue of any publicly listed debt instrument by the Company or the early redemption of such an instrument.
 - 4.2.5 Approval of annual financial statements and interim reports and annual reports of the Company, after review thereof by the Audit Committee.
 - 4.2.6 Approval of the creation of any mortgage, charge or security interest over any material assets of the Company.
 - 4.2.7 The approval of any changes to the residence or tax status of the Company.
 - 4.2.8 Annually reviewing, approving and implementing the Group's approvals framework and the Company expenditure limits.
- 4.3 **Risk**
 - 4.3.1 Exercise risk oversight aimed at ensuring that risks are monitored and managed by the Company and its subsidiaries. This will be delegated from the Board to ensure material consistency with the approvals framework.

- 4.3.2 Review, at a minimum at least annually, the Group's risk strategy document. Approve the Group's risk strategy and risk appetite.²⁴
- 4.3.3 Approve the principles for the proportional implementation of risk policies applicable to the Company subsidiaries and minimum standard requirements for the risk management processes, methodologies and tools of the Company subsidiaries, taking into account the nature, scale and complexity of the respective Company subsidiaries and their respective operations, the level of risk posed to the Group and applicable regulatory requirements.
- 4.3.4 Receive and review regular reports on the nature and extent of risks to the Company's business (including, *inter alia*, legal, insurance, environmental, market conduct and operational risks), the occurrence of risk events (including, *inter alia*, environmental and operational risk), the potential impact of new or emerging risks and trends (including, *inter alia*, the status of any litigation) and the adequacy and effectiveness of related controls and/or mitigating management actions.
- 4.3.5 The Board will ensure that the Company has in place effective systems for risk management and internal control to address key risks and is required to obtain input and assurance from the heads of the Company's risk management and compliance functions regarding the operations, efficiency and effectiveness of the components of the systems for risk management and internal controls relevant to their respective areas of responsibility.
- 4.3.6 The Board will establish and maintain a group risk assessment and management framework to, *inter alia*, enable the identification of intra-group transactions, credit risk and concentration and contagion risks across the Group. The Company is responsible for ensuring that its subsidiaries engage in an ongoing dialogue to appropriately monitor and, where appropriate, reduce risks when undue concentration / contagion risks are identified. Alternatively, the Board must ensure that subsidiaries hold additional capital against the additional risks. The Company must ensure that intra-group transactions are managed in such a way as to eliminate/minimise risk.²⁵
- 4.4 **Regulatory**
- 4.4.1 Monitor and oversee the appropriateness of regulatory compliance, processes and reporting, via the Nom & Gov Co, and protecting the Group's regulatory reputation.

²⁴ King IV, principle 11, para 4.

²⁵ King IV principle 11.

- 4.4.2 Approve the Company's regulatory compliance strategy, obtain assurance that regulatory compliance requirements are implemented in the Company's business, approve the Group's regulatory compliance plans setting out compliance monitoring activities to be conducted by the Group, understand how they will be resourced and be satisfied that those resources will be adequate.
- 4.4.3 Receive and review regular reports on the nature and extent of all material regulatory compliance risks to the Company's business, the potential impact of new or emerging laws and regulations, the occurrence of any regulatory non-compliance related risk events and the adequacy and effectiveness of related processes, controls and/or mitigating actions.
- 4.5 **Statutory & Administrative**
- 4.5.1 The calling of general meetings.
- 4.5.2 Setting the terms of reference for the Board and the Board Committees, setting the roles and responsibilities of the Chairperson²⁶ and approving the role descriptions for the CEO, the CFO and any other executive directors who may be appointed.
- 4.6 **Human Resource Matters**
- 4.6.1 The approval of appointments to the Board and the renewal of non-executive directors' appointments and the recommendation of any such appointments to the shareholders for approval at the next annual general meeting of the Company under guidance of the Nom & Gov Co.
- 4.6.2 The appointment and removal of the CEO, CFO, other executive directors and the Company Secretary (defined below).
- 4.6.3 Ensuring the adequacy of succession plans for directors, as well as Group executive members.
- 4.6.4 Reviewing the appointment and, where necessary, the removal of directors, and considering advice from the Nom & Gov Co in determining the appropriate levels of executive remuneration within the Company.²⁷
- 4.6.5 Annually approve, on recommendation from the Rem & HR Co, the Group's remuneration policy.

²⁷ King IV principle 14.

4.7 Transactions

- 4.7.1 The approval of any matter where the relevant value or potential impact may be in excess of the limit as set out in the Group's approvals framework, other than where separate levels of authority have been delegated by specific resolution of the Board.
- 4.7.2 The approval of any material changes to the Company's corporate structure.
- 4.7.3 The approval of the overall level of insurance for the Company, including any material change to the extent of cover for and terms of directors' and officers' liability insurance and the indemnification of directors.

5. Leadership

5.1 The Chairperson

- 5.1.1 The Chairperson shall be elected and appointed by the Board for a period determined by the Board. It is preferred that the Chairperson is an independent non-executive director. The Board may, at any time, terminate the Chairperson's appointment at any time for reasons including, but not limited to, breach of fiduciary duty, misconduct, incapacity, ineffectiveness in leadership, or any disqualification as contemplated in the Companies Act, 2008. Such termination shall be effected by resolution of the Board in accordance with the provisions of the Memorandum of Incorporation.
- 5.1.2 The role and responsibilities of the Chairperson:
 - 5.1.2.1 include (without limitation):
 - 5.1.2.1.1 providing leadership to the Board in respect of the proper and effective functioning of the Board as a collective;²⁸
 - 5.1.2.1.2 ensuring that adequate time is allocated for discussion of Board matters, especially discussions of a strategic or policy nature; and
 - 5.1.2.1.3 promoting a culture of openness and debate among directors, senior management and heads of control functions; and

²⁸ King IV principle 7, para 31.

- 5.1.2.2 will otherwise be agreed between himself and the Board and be formally documented in his letter of appointment, which will be made available to all directors.²⁹
- 5.1.3 The Board and the Chairperson may, from time to time, revise the role and responsibilities of the Chairperson, by means of an amendment to the Chairperson's letter of appointment.
- 5.2 **Lead Independent Non-Executive Director (LID)**
- 5.2.1 King IV's approach is that a LID should be appointed as a matter of course, regardless of whether the chair is independent or not.
- 5.2.2 The LID shall be recommended by the Nom & Gov Co for the appointment by the Board. The Board may, at any time, terminate an INED at any time for reasons including, but not limited to, breach of fiduciary duty, misconduct, incapacity, ineffectiveness in leadership, or any disqualification as contemplated in the Companies Act, 2008. Such termination shall be effected by resolution of the Board in accordance with the provisions of the Memorandum of Incorporation.
- 5.2.3 The role and responsibilities of the LID:
- 5.2.3.1 Leads in the absence of the chair.
- 5.2.3.2 Serving as a sounding board for the chair.
- 5.2.3.3 Acts as an intermediary between the chair and other members of the governing body, when necessary.
- 5.2.3.4 Deals with shareholders' concerns where contact through the normal channels has failed to resolve concerns, or where such contact is inappropriate.
- 5.2.3.5 Strengthens independence on the board if the chair is not an independent non-executive director.
- 5.2.3.6 Chairs discussions and decision-making by the board on matters where the chair has a conflict of interest.
- 5.2.3.7 Leads the chairperson's appraisal when an independent service provider is not used to facilitate the process

²⁹ King IV Principle 7, para 33.

5.3 Chief Executive Officer

- 5.3.1 The Board shall appoint and may terminate the services of the CEO, subject to paragraph 5.3.2, and should establish an approvals framework for the delegation of authority to the CEO, which promotes independent judgement, assists with balance of power and the effective discharge of the Board's duties.³⁰
- 5.3.2 Subject to the provisions of any contract between the CEO and the Company, the CEO shall be an executive director and shall be subject to the same provisions as to disqualification and removal as the other directors of the Company. Should the CEO's appointment as a director be terminated at any time, his/her appointment as CEO shall be terminated simultaneously.
- 5.3.3 The Board delegates responsibility for overseeing the day to day management of the Group to the CEO in accordance with the description of his/her role as determined by the Board from time to time, subject to the matters reserved for the Board and the matters delegated to the committees of the Board.
- 5.3.4 The CEO will be responsible for leading the implementation and execution of approved strategy, policy and operational planning, and will serve as the chief link between management and the Board.³¹
- 5.3.5 The CEO, with advice from the executive management of the Company, where necessary and appropriate, has overall responsibility for:
- 5.3.5.1 delivering and reporting to the Board on the implementation of strategy and the execution of business plans agreed by the Board;³²
 - 5.3.5.2 the effective exercise of the rights of ownership of shares held in Group companies;
 - 5.3.5.3 maintaining and ensuring the effectiveness of the system of governance and controls that are in place across the Company's activities;
 - 5.3.5.4 strive to achieve financial and operational targets and ensure that the day-to-day business affairs of the Group are appropriately monitored and managed within the approved Group's approvals framework;

³⁰ King IV principles 8 and 10.

³¹ King IV principle 10, para 77.

³² King IV principle 10, para 78.

- 5.3.5.5 establish an organisational structure for the Company which is necessary to enable execution of its strategic planning;
- 5.3.5.6 in conjunction with the Nom & Gov Co, ensure proper succession planning for executive management of the Company;
- 5.3.5.7 monitor and report to the Board the performance of the Company and its conformance with compliance imperatives;
- 5.3.5.8 set the tone at management level in providing ethical leadership and creating an ethical environment and maintaining a positive and ethical work climate that is conducive to attracting, retaining and motivating a diverse group of quality employees;
- 5.3.5.9 with the Nom & Gov Co, ensure that the Company complies with all relevant laws and corporate governance principles and applies all recommended best practices; and
- 5.3.5.10 formulate and oversee the implementation of policies.
- 5.3.6 The CEO may delegate the powers vested in him as he deems fit, provided that this is done in accordance with the Group's approvals framework.

5.4 **The Company Secretary**

- 5.4.1 The Board should appoint a **Company Secretary** and may terminate the services of the Company Secretary.³³
- 5.4.2 The Board must consider and satisfy itself, on an annual basis, on the competence, qualifications and experience of the Company Secretary.³⁴ The performance and independence of the Company Secretary should be evaluated at least annually by the Board.³⁵
- 5.4.3 The Board should be aware of the Company Secretary's duties and should empower the Company Secretary to properly fulfil those duties.³⁶

³³ Sections 86 and 89 of the Companies Act and King IV principle 10, para 91 and 95.

³⁴ Para 3.84(i) of the JSE Listings Requirements.

³⁵ King IV principle 10, para 98.

³⁶ King IV principle 10, para 93.

- 5.4.4 The Company Secretary shall have unfettered access to the Board but, for reasons of independence, shall maintain an arms-length relationship with the Board and its members, and accordingly, the Company Secretary shall not be a Board member.³⁷
- 5.4.5 The Company Secretary shall report to the Board via the Chairperson on all statutory duties and functions performed in connection with the Board. Regarding other duties and administrative matters, the Company Secretary shall report to the CEO, CFO or relevant committee member, as is appropriate in the circumstances.
- 5.4.6 The Company Secretary shall fulfil the duties, roles and responsibilities imposed on it pursuant to section 88(2) of the Companies Act, the JSE Listings Requirements and the King Code.
- 5.4.7 The Company Secretary must at all times maintain the Group's statutory records in accordance with the applicable legal requirements.

6. Access to Resources and Information

- 6.1 The Board has unrestricted direct access to senior management as well as all accounting and other Company information (including in relation to management of the Company) as is necessary for such Director to comply with his/her fiduciary, and other duties, imposed on him/her in terms of the Companies Act, the Listing Requirements or the common law, and must treat all such information as confidential.
- 6.2 With prior notification to the Chairperson, directors may take independent advice on matters within the Board's mandate, at the expense of the Company. In this regard, the Board may procure the services of external consultants or specialists where necessary or appropriate, subject to criteria (such as independence) and due procedures for appointment and dismissal of such consultants or specialists. A formal mandate is to be entered into between such independent advisor and the Company, to be facilitated by the Company Secretary.

7. Board Committees and Delegation

- 7.1 To manage its workload, the Board may establish committees with the specific objective of evaluating key areas of its mandate on a more detailed basis and to report to the Board regularly on material issues that might arise. It is explicitly understood that delegation of responsibilities to committees does not relieve the Board of its duties as set out in law and the Board remains accountable for decisions made under delegation. Anything done or

³⁷ King IV principle 10, para 96.

omitted to be done under a delegation is deemed to have been done or omitted by the Board.

- 7.2 The following committees have been established by the Board:
- 7.2.1 Audit Committee (Audit Co);
 - 7.2.2 Remuneration and Human Resources Committee (Rem & HR Co);
 - 7.2.3 Social, Ethics & Transformation Committee (SE & T Co);
 - 7.2.4 Safety, Health, Environment & Risk Committee (SHE & Risk Co);
 - 7.2.5 Nomination & Governance Committee (Nom & Gov Co);
 - 7.2.6 Investment Committee (Invest Co).
- 7.3 The chairperson of each committee will report on the work of the committee and the issues which it has discussed at every Board meeting. These reports will be oral but will be supported by summary notes prepared by the Company Secretary.
- 7.4 Authority will be delegated to each Board committee established by the Board in terms of a formal terms of reference to be approved for each committee by the Board and reviewed at least every year.
- 7.5 The Board will, with the assistance of the Nom & Gov Co, appropriately constitute Board committees with due regard to the skills required by each committee, so as to ensure that each committee, as a whole, has the necessary knowledge, skills, experience and capacity to execute its duties effectively, in order to comply with the requirements of all laws and regulations applicable to the Company.³⁸
- 7.6 The Board may delegate authority to management but, in doing so, the Board and its directors do not abdicate their duties and responsibilities. In delegating authority, the Board must establish benchmarks and performance indicators to hold management accountable for decisions and actions delegated to them.³⁹
- 7.7 The Board will establish an approvals framework for the delegation of authority to management.⁴⁰

³⁸ King IV principle 8, para 45.

³⁹ King IV principle 8, para 49.

⁴⁰ King IV principle 10.

8. Board meeting process

8.1 Quorum

A quorum for a properly constituted Board meeting will be a majority of the directors, of which two shall be independent non-executive directors.

8.2 Frequency of meetings

The Board will meet as often as required but must meet at least 4 times annually.

8.3 Participation and resolutions

- 8.3.1 Board members who are unable to attend Board meetings shall inform the Chairperson or Company Secretary at an early date.
- 8.3.2 Board meetings may be conducted entirely or partly by electronic communication or a director may participate in a meeting by electronic communication, as contemplated in section 73(3) of the Companies Act (including by means of, *inter alia*, telephone, closed circuit television, webinar or video conferencing) so long as the electronic communication facility employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other without an intermediary, and to participate effectively in the meeting.⁴¹
- 8.3.3 Board members should participate fully and constructively in discussions and other activities and contribute by sharing their knowledge, skills and abilities.
- 8.3.4 An invitation to attend the meeting may be extended to executive management.
- 8.3.5 Each director has one vote on a matter before the Board.
- 8.3.6 A majority of the votes cast on a resolution is sufficient to approve that resolution and, in the case of a tied vote, the Chairperson shall not have a casting vote and the matter being voted on fails.
- 8.3.7 A resolution that could be voted on at a Board meeting may instead be voted on in writing by Directors entitled to exercise voting rights on that matter. Such a resolution in writing (round robin resolution) signed by the majority of the directors who are entitled to exercise voting rights on the resolution proposed shall be as valid and effectual as if it had been passed at a meeting of Directors.

⁴¹ Section 73(3) of the Companies Act.

8.3.8 The passing of round robin resolutions of the Board do not detract from the requirement for frequency of Board meetings as set out in this Board Charter.

8.3.9 All round robin resolutions should be tabled at the next Board meeting for noting.

8.4 **Agenda, meeting papers and minutes**

8.4.1 The procedure to be followed for the convening of meetings, notice of meetings, agendas and minutes of meetings will be in accordance with the Companies Act and the Mol, and will be managed by the Company Secretary.

8.4.2 To the extent reasonably practicable, Board papers will be circulated to all directors at least one week before the meeting and full and appropriate information will be supplied to directors by way of succinct position papers or reports with the Board pack to enable director to form an opinion on the issues on the agenda prior to the meeting and, if necessary, to request additional information before the meeting. Additional documentation may be circulated to Board members prior to the Board meeting and will, to the extent applicable and appropriate, be clearly labelled to indicate that such documentation constitutes additional but non-essential reading.

8.4.3 The Company Secretary shall keep appropriate records of all meetings of the Board as well as minutes of the proceedings and all decisions made.

8.4.4 Minutes of the Board meetings, signed by the Chairperson, shall be sufficient evidence that the matters referred to therein have been fully discussed and agreed, whether by way of a formal meeting or otherwise.

8.4.5 The Company Secretary shall circulate the minutes of the meetings of the Board to all members of the Board and to the Chairperson of the Board. Any Director of the Company may, upon request to the Company Secretary, provided that there is no conflict of interest, obtain copies of the Board's meeting agenda and minutes.

9. **Board work plan**

An annual work plan will be prepared for the Board and a list of issues which need to be considered by the Board annually will be tabled at the first Board meeting of each year. The agenda for discussion of these issues will be spread over the meetings of the year so that each of these issues are addressed at least once a year. The work plan will be formulated by the Chairperson, in consultation with the CEO and Company Secretary.

10. Disclosure of Conflict of Interest and Other Appointments

- 10.1 In dealing with conflicts, the Board must comply with section 75 of the Companies Act.
- 10.2 Directors are obliged timeously to disclose all direct or indirect conflicts of interest and personal financial interests that are held by them and any related and inter-related persons (as contemplated in section 2 of the Companies Act) in accordance with section 75 of the Companies Act (and, if applicable, any requirements in the Mol). Full disclosures should be made in writing and be submitted to the Company Secretary who will submit relevant information pertaining to such disclosure to the Board, as soon as possible after such disclosure has been made by a director. Enduring, material conflicts of interest are regarded by the Board as incompatible with the fiduciary duties of directors.
- 10.3 Any possible direct or indirect conflicts of interest and personal financial interests that are held by a director and any related and inter-related persons (as contemplated in section 2 of the Companies Act) shall be disclosed (in the manner prescribed by law and in the Mol, to the extent applicable) as soon as a director becomes aware thereof (and in any event prior to the consideration of the matter to which the conflict of interest or personal financial interest relates, at any Board meeting). The director concerned shall not participate in a discussion or vote on a matter in respect of which that director or any related and inter-related persons of the director (as contemplated in section 2 of the Companies Act) has a personal financial interest or a conflict of interest and will leave the meeting immediately after making the requisite disclosure, in accordance with the prescribed procedures in section 75 of the Companies Act (and, if applicable, any requirements in the Mol).
- 10.4 A director may accept other board appointments, provided that such appointments do not conflict with the interests of the Group and/or adversely affect the director in fulfilling his fiduciary duties. The Guidelines for serving on other Boards should be followed and a formal notification to serve on another Board must be submitted to the Board.

11. Dealing in Securities of the Company

- 11.1 The directors, should prior to dealing in the Company's securities, obtain clearance to deal in securities, as outlined in the Thungela Dealing Code.
- 11.2 The director should confirm the trade with the Company Secretary, within the required timeframe to notify the Company's shareholders, the JSE and the LSE.
- 11.3 When buying or selling shares, directors must strictly observe the provisions of the Mol, the JSE Listings Requirements, the LSE Listing Rules, the Company's own internal rules and

policies and all relevant legislative or regulatory procedures and should follow any procedural recommendations prescribed and approved by the Board from time to time.

12. Induction of New Directors and Training for Serving Board Members

- 12.1 New directors will be required to undergo a formal induction and orientation programme which will be approved by the Chairperson and facilitated by the Company Secretary. The programme should meet the specific needs of both the Company and the individual. The aim is to deepen their understanding of the Company, its operations, the business environment and markets in which the Company operates and sustainability issues relevant to its business, so that any new director may make the maximum contribution as quickly as possible.
- 12.2 Directors are required to keep abreast of changes and trends in the Company's business, and its environment, as well as the legal climate within which the Company operates.
- 12.3 Ongoing training will be provided to directors as and when appropriate.

13. Performance evaluation of the Board, Committee and Directors

- 13.1 The Board and each of the Board's committees will be independently evaluated as required by legislation and/or best practice governance every second year, and internally every other year, and actions from the evaluation should be agreed with implementation tracked and reported to the Board.⁴²
- 13.2 The Board shall appoint an independent non-executive member to lead, with the assistance of an independent service provider, the evaluation of the performance of the Chairperson annually and provide a report to the Board confirming the outcome of the evaluation, with a formal process to address any matters for consideration. The Chairperson evaluation will be benchmarked against his role and functions.⁴³
- 13.3 The performance of individual directors will be evaluated every second year, including at each point in time when they are due to retire by rotation and they offer themselves for re-appointment, either externally facilitated or not in accordance with the methodology approved by the Board.
- 13.4 The Board may, at any time, terminate an INED at any time for reasons including, but not limited to, breach of fiduciary duty, misconduct, incapacity, ineffectiveness in leadership, or any disqualification as contemplated in the Companies Act, 2008. Such termination shall be

⁴² King IV principle 9.

⁴³ King IV principle 9.

effected by resolution of the Board in accordance with the provisions of the Memorandum of Incorporation.

14. Remuneration

- 14.1 Board members shall be remunerated for their services. The Chairperson may be paid an additional fee for his or her services as Chairperson.
- 14.2 The Rem & HR Co of the Company shall annually review and recommend the remuneration to be paid to Board members who are non-executive directors of the Company for approval by the Board, and onward recommendation for approval by shareholders of the Company at the next AGM by way of a special resolution.⁴⁴
- 14.3 The Company's Remuneration Policy and Remuneration Report (including the part of the Remuneration Report comprising the Implementation Report), which the Rem & HR Co has recommended to the Board for its consideration and, if the Board considers it appropriate, approval, should (once approved by the Board) be tabled to shareholders every year for voting thereon as separate non-binding advisory votes at the AGM.⁴⁵
- 14.4 The Board will report to the shareholders on remuneration and this should be included in the Company's integrated annual report and financial statements.

15. Board Expenses

All expenses necessarily incurred by the Board in connection with the business of the Company and attending Board or committee meetings shall be paid by the Company.

16. General

- 16.1 All Company and Group related information that becomes known to directors in the performance of their duties must at all times be kept confidential.
- 16.2 Except to the extent of legal or regulatory provisions to the contrary, non-executive directors, are entitled to rely on the executives of the Company and those of other entities within the Group in relation to matters within their area of expertise and may assume the accuracy of information provided by such persons, provided that the director is not aware of any reasonable grounds upon which reliance or assumption may be inappropriate.

⁴⁴ Section 66(9) of the Companies Act and King IV principle 10, para 36.

⁴⁵ King IV principle 10, para 37 and King IV principle 14, para 37. Section 3.82 of the JSE Listings Requirements.

17. Approval and Status of the Board Charter

- 17.1 This Board Charter will be reviewed by the Board as required.
- 17.2 This Board Charter will be deemed to be accepted by, and be binding upon, all existing and future directors of the Board and/or Board committee members from their acceptance of appointment as directors and/or Board committee members, as the case may be, without anything further being required.