

# PEPKOR

*Holdings Limited*



**Board** charter

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## **PEPKOR HOLDINGS LIMITED**

REGISTRATION NUMBER 2017/221869/06

(*"The Company" or "Pepkor"*)

### **BOARD OF DIRECTORS ("THE BOARD") CHARTER**

(*References in this charter to the "Group" shall include all companies and business units within the Pepkor group of companies*)

#### **1. ETHICS AND MISSION**

The Board is committed to the Constitution of the Republic of South Africa and strives to ensure compliance with all applicable legislation and regulations. It accepts the principles of fairness, accountability, integrity, competence, responsibility and transparency and endeavours to achieve enhancement in the long term of shareholder value, following these principles.

The mission of the Board is to represent the interests of all stakeholders in perpetuating a successful, sustainable and ethical business.

#### **2. COMPOSITION AND APPOINTMENTS**

- 2.1. The Board shall consist of executive and non-executive directors.
- 2.2. The majority of directors on the Board shall be non-executive directors, the majority of whom shall be independent non-executive directors.
- 2.3. No director shall be entitled to hold, simultaneously, the positions of both Chairman of the Board and chief executive officer of the company and no director may be appointed for life.
- 2.4. The Chairman shall be elected by the Board from its own ranks as soon as may be practicable. The Chairman shall not have a casting vote.
- 2.5. The appointment of the Chairman shall be reviewed annually and, if appropriate, confirmed by the Board.
- 2.6. The Board may, if required, appoint an independent director as the lead independent director.
- 2.7. The appointment of the lead independent director shall be reviewed annually and, if appropriate, confirmed by the Board.
- 2.8. Appointments to the Board and its committees shall follow a formal and transparent procedure:
  - 2.8.1. Appointments to the Board and its committees shall be effected by the Board as a whole and as permitted under Companies Act no 71 of 2008 ("the Act") in accordance with the provisions of the company's memorandum of incorporation and all applicable regulatory requirements.
  - 2.8.2. Nominations for consideration for appointment to the Board and/or committees of the Board may be made to the nomination committee by any director, and the nomination committee shall, in accordance with its terms of reference, consider such nomination(s) for recommendation to the Board having due regard to the composition and requirements of the Board and/ or its committees and the eligibility, suitability, experience and qualifications of each person nominated and to the provisions of the company's gender and race policies, as adopted from

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time to time, for appointments at Board level. Subject to the provisions of 2.8.3, the Board as a whole shall consider and, if appropriate, approve such appointments.

2.8.3. All appointments/ re-appointments to the Board and to the audit and risk committee shall be subject to the approval/ ratification, as may be required, of the shareholders in general meeting.

2.8.4. Rotation provisions for the re-appointment of directors shall be as contained in the company's memorandum of incorporation, having due regard to the performance on the Board of such directors.

2.9. In effecting Board and/or committee or senior executive appointments, all reasonable efforts shall be made to:

2.9.1. harness skills, experience, knowledge, race and gender diversity and independence in such a manner that the interests of the company are best served; and

2.9.2. create a basis with which to ensure and enhance effective succession planning.

2.10. New directors appointed to the Board shall be given an appropriate induction into the business and affairs of the Group and into the duties of any committee on which they may be appointed to serve.

### **3. DUTIES OF THE BOARD CHAIRMAN**

The principal role of the Board Chairman is to manage and provide leadership to the Board of Directors of the Company. The Chairman is accountable to the Board and acts as a direct liaison between the Board and the management of the Company, through the Chief Executive Officer ("CEO"). The Chairman acts as the communicator for Board decisions where appropriate. The concept of separation of the role of the Chairman from that of the CEO implies that the Chairman should be independent from management and free from any interest and any business or other relationship which could interfere with the Chairman's independent judgment other than interests resulting from Company shareholdings and remuneration.

More specifically, the duties and responsibilities of the Chairman are as follows:

3.1. to act as a liaison between management and the Board;

3.2. to provide independent advice and counsel to the CEO;

3.3. to keep abreast generally of the activities of the Company and its management;

3.4. to ensure that the Directors are properly informed and that sufficient information is provided to enable the Directors to form appropriate judgments;

3.5. in conjunction with the CEO, to develop and set the agendas for meetings of the Board;

3.6. to act as Chairman at meetings of the Board;

3.7. to recommend an annual schedule of the date, time and location of Board and Committee meetings;

3.8. to review and sign minutes of Board meetings;

3.9. to sit on other Committees of the Board where appropriate as determined by the Board;

3.10. to call special meetings of the Board where appropriate;

3.11. in conjunction with the CEO, to determine the date, time and location of the annual meeting of shareholders and to develop the agenda for the meeting;

3.12. to act as Chairman at meetings of shareholders;

3.13. to recommend to the Board, after consultation with the Directors, management and the Nominations Committee, the appointment of members of the Committees of the Board;

3.14. to assess and make recommendations to the Board annually regarding the effectiveness of the Board as a whole, the Committees of the Board and individual Directors; and

3.15. to ensure that regularly, upon completion of the ordinary business of a meeting of the Board, the Directors hold discussions without management present.

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#### **4. DUTIES OF THE LEAD INDEPENDENT DIRECTOR (LID)**

The lead independent director (LID) must be a member of the Board of Directors of the Company, who meets the requirements for an independent director in the Companies Act and King IV, and any other criteria evidencing objectivity and independence, established by the Board.

The duties and responsibilities of the LID are as follows:

- 4.1. to lead in the absence of the Chairman;
- 4.2. to serve as a sounding board for the Chairman;
- 4.3. to act as an intermediary between the Chairman and other members of the governing body, if necessary;
- 4.4. to deal with shareholders' concerns where contact through the normal channels has failed to resolve concerns, or where such contact is inappropriate;
- 4.5. to strengthen independence on the governing body if the Chairman is not an independent nonexecutive member of the governing body;
- 4.6. to chair discussions and decision-making by the governing body on matters where the Chairman has a conflict of interest; and
- 4.7. to lead the performance appraisal of the Chairman.

#### **5. DUTIES OF THE BOARD**

- 5.1. It is the collective responsibility of the Board to:
  - steer the strategic direction of the Group and any subsequent material changes in strategic direction and to approve and oversee the implementation and execution by management of its strategies, appreciating that the Group's core purpose, its risks and opportunities, strategy, business model, performance and sustainable development are all inseparable elements of the value creation process;
  - ensure that the appointment of and delegation to management contribute to role clarity and the effective exercise of authority and responsibilities, setting the direction and parameters for the powers that are reserved to the Board and those that are to be delegated to management;
  - define levels of materiality, reserving specific powers to the Board ;
  - approve the policies, operational plans and budgets developed by management necessary for the implementation of the strategic direction in the short, medium and long term, and any subsequent material deviations in business plans;
  - ensure that the Group's activities and outputs are conducted in a sustainable manner, having due regard to the interests of stakeholders;
  - be alert to and monitor the general viability of the Company as a going concern;
  - provide effective leadership based on an ethical foundation, setting the tone for ethical leadership;
  - ensure that a code of ethics is adopted, delegating to management the responsibility for implementing and applying the code of ethics;
  - ensure that the company and the Group are seen to be responsible corporate Citizens by:
    - setting the direction for how corporate citizenship should be approached and addressed by the Group;
    - ensuring compliance with the Constitution of South Africa (including the Bill of Rights), the law, leading standards and adherence to the Group's code of ethics; and
    - overseeing and monitoring, on a regular basis, how the consequences of the Group's operations and outputs affect its status as a responsible corporate citizen in the areas of the workplace, the economy, society and the environment.
  - serve as the focal point and custodian of corporate governance for the Group;

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- ensure the adequacy and effectiveness of internal control systems and procedures;
- report on the efficacy of the Group's system of internal controls; ensuring that assurance services and functions enable an effective control environment ;
- govern risk in a responsible manner way that supports the company in setting and achieving its strategic goals and objectives, taking into account opportunities and associated risks and the potential positive and negative effects of such risks on the achievement of the Group's objectives;
- determine the Group's risk appetite;
- delegate to management the responsibility to implement and execute effective risk management;
- have ongoing oversight of risk management;
- ensure that there is appropriate and effective risk-based internal audit;
- ensure that the business of the company is conducted in accordance with the principles of fairness, accountability, transparency, responsibility, competence and integrity;
- approve the annual financial statements and interim reports of the company and ensure the integrity of the company's Integrated Report and corporate governance report;
- ensure that the Company's reporting enables stakeholders to make informed assessments of the Group's performance and prospects;
- consider and, if appropriate, declare distributions in accordance with the provisions of the Act;
- ensure appropriate governance of the Group's Information Technology systems to support the achievement of the Group's strategic objectives, delegating to management the responsibility to implement and execute effective technology and information systems;
- ensure that the Group remunerates fairly, responsibly and transparently so as to promote the achievement of strategic objectives and positive outcomes in the short, medium and long term;
- approve a remuneration policy detailing all elements of remuneration that are offered by the Group;
- communicate and maintain relations with shareholders and the general public and other internal and external stakeholders in a balanced, transparent, responsible and timely manner, adopting a stakeholder-inclusive approach; and
- ensure the undertaking of annual performance/effectiveness assessments of the Board and the audit and risk and human resources and remuneration committees of the Board, and of such other committees as the Board may deem appropriate or as may be required to be performed to comply with regulations; the results of which evaluations shall be reviewed by the Board to ensure that appropriate action is taken where required.

5.2. In carrying out its responsibilities, the Board shall ensure that:

- there is a balance of power and authority at Board level and that no single director has unfettered powers;
- an adequate and effective process of corporate governance, including the process of risk and audit management, is established and maintained;
- appropriate director and executive selection, remuneration levels and related human resources matters are dealt with through the appointment of committees of the Board;
- reasonable procedures to monitor and secure compliance by the company with all legislation and regulations which may be material to its businesses and affairs are adopted;
- arrangements are in place for delegation within its own structures, including the appointment of standing and ad hoc committees, to promote independent judgement and assist with the balance of power on the Board and the effective discharge by the Board of its duties; and
- the Group's assurance services and functions enable an effective control environment.

5.3. The Board shall receive information and reports from the chief executive officer and the chief financial officer, on behalf of management, as well as advice and reports from the committees appointed by the Board. The contents of such reports, the basis on which they are prepared and material parts thereof, must be considered and, if required, debated at Board meetings.

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- 5.4. The Board shall review, consider, and may make recommendations in relation to operational management and performance on the basis of the facts and circumstances set forth from time to time in the reports provided for Board meetings.
- 5.5. In view of the diversity and spread of the Group's businesses, enterprises and ventures, the Board is entitled to rely upon information provided to it by management and, in particular, on the reports of the chief executive officer and the chief financial officer, and is entitled further to base its decisions and recommendations on the accuracy of the information thus provided to it, provided that each director is nevertheless obliged to apply his/her own mind and to bring his/her own skill, experience and judgement to bear to the facts at hand, i.e. no director is entitled to blindly rely on advice and must make a concerted effort to understand the information placed in front of him/her and must apply an enquiring mind to such information.
- 5.6. The Board shall record the facts and assumptions on which it relies to conclude that the business will be a going concern in the year ahead, or why it will not, and, in such case, the steps that the Board is taking to ensure the sustainability of the Group's businesses.
- 5.7. Subject to obtaining the prior approval of the company, which approval may not be unreasonably withheld, any director may seek professional advice on a material matter relating to their duties and obligations in respect of the company, at the cost of the company.
- 5.8. Should circumstances so require, the Board may take such steps as may be necessary to file a resolution for business rescue as contemplated in the Act and to appoint a business rescue practitioner.

## **6. DIRECTORS' OBLIGATIONS**

- 6.1. Directors must at all times exhibit *uberrima fides* in relation to all matters concerning the company and must always act in the best interest of the company, exercising due care, skill and diligence as may reasonably be expected of a person carrying out the same functions and having the general knowledge, skill and experience as that director.
- 6.2. Board members are under a legal duty to prevent conflicts of interest with the company and must make full disclosure of any areas or potential areas of conflict prior to any discussion or consideration by the Board of such items and, where a conflict of interest exists, conflicted directors shall not take part in any Board discussion on such matter(s), save as may be permitted under the Act, relating to the disclosure of relevant information on the subject matter and shall excuse themselves from the meeting whilst discussions on such matter(s) are in progress.
- 6.3. All information relating to the company, its businesses and affairs, established and/or learned in the capacity of director, must be treated and dealt with on a confidential basis and the listings requirements of the JSE Limited regarding the dissemination of price-sensitive information, as defined in the company's policy on the Disclosure of Inside Information and Insider Trading, must be complied with at all times.
- 6.4. Trading by directors and/or alternate directors and/or prescribed officers in the company's shares will be subject to compliance with all applicable legislation and regulations, the listings requirements of the JSE Limited and to the company's Disclosure/use of Inside Information and Insider Trading Policy.

## **7. MEETINGS AND PROCEEDINGS**

- 7.1. The Board will meet at least four times per year. Additional meetings will be held as and when necessary. Disclosure of the number of Board and committee meetings held in the year and attendance thereat will be recorded in the company's Integrated Report.
- 7.2. The Chairman (or his delegate) shall be entitled to conduct meetings as he may deem appropriate in the circumstances, subject to ensuring that reasonable procedures have been adopted to ensure compliance by the company with legislation and regulations which may be relevant to the conduct of its businesses and affairs.

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- 7.3. Board members shall be furnished with all material documentation reasonably required so that Board members may prepare themselves for each meeting and allow for them to participate on an informed and meaningful basis.
- 7.4. Board members are required to peruse and consider the contents of Board packs to enable them to participate in Board and committee meetings on an informed and meaningful basis.
- 7.5. Minutes of all Board meetings shall be taken by the company secretary who shall record the proceedings and decisions taken, the details of which shall remain confidential.
- 7.6. A record shall be kept of the attendance of directors at Board meetings.
- 7.7. Unless varied by this charter, meetings and proceedings of the Board shall be governed by the company's memorandum of incorporation, subject to compliance with the Act.

## **8. ATTENDANCE AT MEETINGS**

- 8.1. Professional advisors, officers or members of staff whose input may be required for the purpose *inter alia* of capacity building for potential directors, may be invited to Board meetings at the discretion of the chairman.
- 8.2. The chairman shall excuse from the meeting, or from any item on the agenda, any of the attendees at a meeting who may have or may be considered by the Board to have, a conflict of interest.
- 8.3. No invitee shall have a vote at meetings of the Board.

## **9. FEES**

Fees payable to directors in respect of their services on the Board as directors must be approved by the shareholders in a general meeting and the material terms thereof are to be disclosed in the company's Integrated Report.

## **10. MANAGEMENT**

- 10.1. The day to day business and affairs of the company are to be conducted by Management.
- 10.2. Management generally, and executive directors specifically, remain at all times, duty bound to continuously inform non-executive directors, on a comprehensive and intelligible basis, of any matter which may be material to the business and affairs of the company and, in particular, of all and any circumstances which may relate, either directly or indirectly, to the going concern status of the company.
- 10.3. The businesses and affairs of the subsidiaries and associates of the company are conducted by management employed for that purpose and due cognisance is taken in this regard of the particular nature, extent and location of such businesses and of the resulting circumstance that the chief executive officer, the chief financial officer and other executives of the company are obliged to rely upon in respect of the accuracy and completeness of information received by them from the management of such businesses.

## **11. SECRETARY**

- 11.1. In accordance with the provisions of the Act, the company must appoint a properly experienced and/or qualified company secretary.
- 11.2. The Board is responsible for the selection and appointment of the company secretary. The Board shall recognise the pivotal role to be played by the company secretary in the achievement of good corporate governance and shall empower this individual accordingly. The company secretary must provide the Board as a whole and the individual directors with detailed guidance regarding their responsibilities.
- 11.3. The position of company secretary may be filled by a juristic body, whose members fulfil the relevant requirements of the Act or any regulatory bodies.
- 11.4. The company secretary (or representative thereof if a juristic body) shall attend all Board meetings.

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- 11.5. The Board shall maintain an arms' length relationship with the company secretary.
- 11.6. The Board shall review the relationship with, and the appointment of, the company secretary on an annual basis.

## **12. COMMITTEES**

- 12.1. The Board shall be entitled to appoint committees to investigate and/or consider and/or furnish advice, make recommendations and/or make final decisions in regard to the matters specifically set out under the written terms of reference for such committees.
- 12.2. Apart from any *ad hoc* committees which may at any time be appointed for any purpose, the Board shall appoint the following committees to promote independent judgement and to assist the Board with the balance of power and the effective discharge of its duties:
  - 12.2.1 An audit and risk committee.
  - 12.2.2 A human resources and remuneration committee.
  - 12.2.3 A nomination committee.
  - 12.2.4 A social and ethics committee.
- 12.3. Should, however, the company be a subsidiary of another company that has a social and ethics committee which will perform the functions required of a social and ethics committee by the Act on behalf of the company, then, as permitted by the Act, the Board may elect not to establish a separate social and ethics committee of the company.

## **13. COMPOSITION OF COMMITTEES**

- 13.1. Subject to compliance with the provisions of the Act and all regulatory requirements, all Board committees shall be established by the Board. The appointment of committee members shall be recommended by the nomination committee, provided that prior shareholder approval shall be required for the appointment of directors as members of the audit and risk committee of the company and the appointment/ re-election of directors shall be subject to the provisions of the Act and the company's memorandum of incorporation.
- 13.2. Committees act with the delegated authority of the Board and are responsible to the Board and delegation to management in no way relieves or discharges the Board and its individual directors of their responsibilities.
- 13.3. Committees shall be appointed by the Board from its own ranks and the composition of the committees shall be in accordance with the provisions of the Act and all relevant regulations.
- 13.4. The Board may, having due regard to the recommendations of the nomination committee, terminate or extend appointments to committees of the Board.

## **14. TERMS OF REFERENCE OF COMMITTEES**

- 14.1. Meetings and proceedings of all Board committees shall be governed, *mutatis mutandis*, by those provisions of the company which deal with Board meetings, including the provisions set out in 3.1 -3.8 above or by specific terms of reference approved by the Board, which terms of reference shall be subject to compliance with the Act, and all applicable regulations.
- 14.2. Meetings of committees shall be held as each committee may deem appropriate, or as otherwise directed by the Board.
- 14.3. A quorum for each committee shall be constituted by a majority of its members, unless specified otherwise in the terms of reference for any committee.
- 14.4. The chairman of each committee shall be elected from the ranks of its members as soon as may be practicable, save that the Board shall be entitled to appoint the chairman of the audit and risk committee.

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- 14.5. The company secretary shall act, *ex officio*, as secretary on all Board committees (with power of delegation).
- 14.6. The chairman of each committee, acting in conjunction with the company secretary, shall determine the agenda for and the procedure to be adopted at committee meetings.
- 14.7. The chairman of each committee may invite any other executive, employee or independent professional to attend any particular committee meeting, as an invitee.
- 14.8. The terms of reference of each committee shall be reviewed annually by the Board.

**15. REVIEW OF THE BOARD CHARTER**

The Board charter shall be reviewed on a regular basis, in accordance with all regulatory requirements.

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