

AUDIT AND COMPLIANCE COMMITTEE

TERMS OF REFERENCE

1 CONSTITUTION

- 1.1 The Audit Committee (“the Committee”) is constituted as a statutory committee of the Company in respect of its statutory duties in terms of section 94(7) of the Companies Act, 2008 (“the Act”), and Section 3.83 of the JSE Listings Requirements (“JSE LR”) and as a committee of its board of directors (“Board”) in respect of all other duties assigned to it by the Board of Tongaat Hulett Limited (“the Company”).
- 1.2 The Committee shall perform these duties and responsibilities for the Company and also for all the other South African subsidiaries of the Company from time to time which are required in terms of the Act to have audit committees.
- 1.3 The duties and responsibilities of the members of the Committee as set out in this document are in addition to those duties and responsibilities that they have as members of the Board.
- 1.4 The deliberations of the Committee do not reduce the individual and collective responsibilities of Board members in regard to their fiduciary duties and responsibilities, and they must continue to exercise due care and judgement in accordance with their legal obligations.
- 1.5 These Terms of Reference are subject to the provisions of the Companies Act, the Company's Memorandum of Incorporation and any other applicable law or regulatory provisions, including the JSE LR.

2 PURPOSE AND OBJECTIVES

- 2.1 The purpose of these Terms of Reference is to set out the Committee's role and responsibilities as well as the requirements for its composition and meeting procedures.
- 2.2 The Committee serves in an advisory capacity to the Board and assists the directors to discharge their duties relating to the safeguarding of assets, the operation of adequate systems, financial risk management and controls, the review of financial information, and the preparation of annual financial statements and the other matters incorporated in the annual report.

3 ROLE

- 3.1 The Committee has an independent role with accountability to both the Board and the shareholders.

- 3.2 The Committee does not assume the functions of management, which remain the responsibility of the executive directors, officers and other members of senior management.
- 3.3 In carrying out its duties under these Terms of Reference, the Committee will have due regard to the principles of governance and code of best practice as contained in the King IV Code, as well as specific responsibilities assigned to audit committees in terms of the Companies Act and the JSE LR.

4 **RESPONSIBILITIES**

4.1 **Financial reporting**

The Committee must: -

- 4.1.1 prepare a report, to be included in the annual financial statements for each financial year:
- 4.1.1.1 describing how the Committee carried out its functions;
- 4.1.1.2 stating whether the Committee is satisfied that the external auditors were independent of the Company; and
- 4.1.1.3 commenting in any way the Committee considers appropriate on the financial statements, the accounting practices and the internal financial control of the Company;
- 4.1.2 consider the disclosure in the annual report regarding the systems of internal financial controls in place in the Company;
- 4.1.3 examine and review the integrity of the annual financial statements, the interim reports, the accompanying reports to shareholders, the preliminary announcement of results and any other announcement regarding the Company's results or other financial information to be made public, prior to submission to the Board;
- 4.1.4 report its views to the Board where, following the review, the Committee is not satisfied with any aspect of the proposed financial reporting by the Company.

4.2 **External audit**

The Committee is responsible for recommending the appointment of the external auditor and for overseeing the external audit process. In this regard the Committee must: -

- 4.2.1 nominate the external auditor for appointment by the shareholders;
- 4.2.2 approve the terms of engagement and remuneration for the external audit engagement;
- 4.2.3 evaluate and report on the performance, qualification, independence and effectiveness of the external auditor, with specific consideration to the JSE LR in this regard;
- 4.2.4 approve a policy for non-audit services provided by the external auditor and pre-approve all permissible non-audit services to be provided by the external auditor;
- 4.2.5 ensure that there is a process for the audit committee to be informed of any Reportable Irregularities (as identified in the Auditing Profession Act, 2005) identified and reported by the external auditor;

- 4.2.6 review the quality and effectiveness of the external audit process;
- 4.2.7 Request from the audit firm (and if necessary, consult with the audit firm on) the information detailed in paragraph 22.15(h) of the JSE Listings Requirements, in their assessment of the suitability for appointment of their current or a prospective audit firm and designated individual partner both when they are appointed for the first time and thereafter annually for every re-appointment.

4.3 **Integrated reporting**

The Committee oversees integrated reporting, and in particular it must: -

- 4.3.1 have regard to material factors and risks that may impact on the integrity of the integrated report, including factors that may predispose management to present a misleading picture, significant judgements and reporting decisions made, monitoring or enforcement actions by a regulatory body, any evidence that brings into question previously published information, forward-looking statements or information;
- 4.3.2 recommend to the Board the engagement of an external assurance provider on material sustainability issues, if required;
- 4.3.3 recommend the integrated report for approval by the Board.

4.4 **Combined assurance**

The Committee will ensure that a combined assurance framework is adopted to provide a coordinated approach to all assurance activities, and in particular the Committee should: -

- 4.4.1 ensure that the combined assurance received is appropriate to address all the significant risks facing the Company;
- 4.4.2 monitor the relationship between the external assurance providers and the company;
- 4.4.3 Consider adequate disclosure in respect of combined assurance in the Integrated Report.

4.5 **Internal audit**

The Committee is responsible for overseeing of internal audit, and in particular it should: -

- 4.5.1 consider the appointment, performance assessment and/or dismissal of the Chief Internal Audit Executive;
- 4.5.2 review and approve the annual internal audit plan, ensuring that all material risk areas are adequately covered;
- 4.5.3 ensure that the internal audit function is subject to an independent quality review, as and when the Committee determines it to be appropriate.
- 4.5.4 review significant matters reported by the internal audit function and the adequacy of corrective actions taken by executive management in response to significant internal audit findings;

4.5.5 be satisfied that the internal audit function is properly resourced, has appropriate authority and standing in the Company, and that its activities are conducted in terms of the professional standards of the Institute of Internal Auditors;

4.5.6 evaluate the independence and effectiveness of the internal auditor.

4.6 **Financial Risk governance**

As an integral component of risk governance, the Committee must: -

4.6.1 assist the directors to discharge their duties relating to the safeguarding of assets, the operation of adequate systems, financial risk management and controls, the review of financial information, and the preparation of annual financial statements and the other matters incorporated in the annual report;

4.6.2 oversee financial reporting risks, internal financial controls, fraud risks as it relates to financial reporting.

4.7 **Compliance**

The Committee must: -

4.7.1 review and consider compliance with material regulatory requirements, standards and codes of good business practice in relation to reporting related matters, as applicable to the Company;

4.7.2 ensure that compliance is monitored and reported on an ongoing basis;

4.7.3 review reports indicating material compliance breaches, as well as the corrective measures to prevent such breaches from re-occurring.

4.8 **Whistle-blowing**

The Committee must: -

4.8.1 review the arrangements of the Company by which staff may in confidence and with total anonymity raise concerns about possible improprieties in matters of financial reporting or any other matters;

4.8.2 ensure that the arrangements are in place in order to independently investigate such matter and ensure that adequate controls prevent the impropriety from re-occurring;

4.8.3 consider the significant matters reporting, findings of internal investigations and management's response thereto.

4.9 **Corporate Governance**

The Committee should: -

4.9.1 promote the overall effectiveness of corporate governance within the Company in accordance with the recommendations of the King IV Code and other relevant requirements of good corporate practice;

- 4.9.2 consider and satisfy itself of the suitability of the expertise and experience of the Chief Financial Officer and the finance function on an annual basis;
- 4.9.3 review the disclosure of the role of the Committee to be included in the integrated annual report;
- 4.9.4 review and report to the Board on the Committee performance and operating effectiveness at least annually.

4.10 **Information and Technology (“IT”)**

The Committee should assist the Board in carrying out the IT responsibilities assigned to it in terms of the King IV Code, with particular reference to the following, and relying on expert advice from within and/or outside the company, as appropriate: -

- 4.10.1 Assist the Board to oversee the development and implementation of an IT governance charter and policies that are integrated with the business strategy process and which sustain and enhance the Company’s strategic objectives, thereby improving the Company’s performance and sustainability;
- 4.10.2 Oversee the implementation of IT processes and governance mechanisms, IT frameworks, policies, procedures and standards, ensuring IT governance alignment with corporate governance;
- 4.10.3 Review the information security strategy (including information security, information management and information privacy) and management’s implementation of the strategy;
- 4.10.4 Reviewing the information and technology risks insofar as they relate to financial reporting and the going concern assessment of the company;
- 4.10.5 Considering the use of technology and related techniques to improve audit coverage and audit efficiency; and
- 4.10.6 Obtaining appropriate assurance that the necessary controls in place are effective in addressing the risks in these areas.

5 **COMPOSITION OF THE COMMITTEE**

- 5.1 In accordance with the provisions of the Companies Act, 2008 (“**the Act**”) read with the JSE LR and King IV Code, the members of the Audit Committee (“**the Committee**”) must comprise at least three (3) members, all of whom must be independent non-executive directors of the Company, appointed by the shareholders on an annual basis at each annual general meeting, until the following annual general meeting.
- 5.2 The Board shall determine the number of members of the Committee from time to time, provided that there shall be not less than three (3) members at any time.
- 5.3 The chairman of the Risk Committee will be an *ex officio* member of the Committee.
- 5.4 The chairman of the Board is not eligible to be a member of the Committee, without specific shareholder approval.
- 5.5 The Directors Affairs and Nomination Committee will recommend the members of the Committee to the Board, which in turn, will make its recommendation to the shareholders, for consideration at each annual general meeting.

- 5.6 Upon the recommendation of the Directors Affairs and Nomination Committee, the Board shall appoint one of the members of the Committee as its chairman and determine the period of his office. The Chairman of the Committee will act as a spokesperson for the Committee as required.
- 5.7 All members of the Committee must be suitably skilled and experienced independent non-executive directors. The Committee as a whole should have sufficient qualifications and experience to fulfil its duties, and the members should keep up-to-date with developments affecting the required skills set.

6 REMUNERATION

The members of the Committee will be remunerated for their services at a level recommended from time to time by the Board and approved by the shareholders of the Company in general meeting.

7 MEETINGS

- 7.1 Unless varied by these Terms of Reference, meetings and proceedings of the Audit Committee will be governed by the Company's Memorandum of Incorporation.
- 7.2 The chairman of the Committee shall report to the next meeting of the Board on the deliberations and recommendations of the Committee, to assist the Board in discharging its obligations under the Act.

Attendance at meetings

- 7.3 In addition to the members of the Committee, the following persons may be invited to attend a meeting, but may not vote, at meetings of the Committee: -
- 7.3.1 Executive Management;
- 7.3.2 Internal and External assurance providers and functions.
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- 7.4 Other members of senior management and/or professional advisers may be invited to attend meetings of the Committee from time to time, as deemed appropriate by the Committee, but they shall have no vote.
- 7.5 Committee members must attend all scheduled meetings of the Committee, including meetings called on an *ad hoc* basis for special matters, unless prior apology with reasons has been submitted to the Chairman or Company Secretary.
- 7.6 The Committee has the authority to exclude any attendee from meetings of the Committee for the duration of a specific meeting, or for a particular item under discussion, if it believes there is sufficient reason.
- 7.7 If the appointed Chairman of the Committee is absent from a meeting, the members present must elect one of the members to act as Chairman.

Secretary

- 7.8 The Company Secretary shall act as the Secretary of the Committee.

Frequency of meetings

- 7.9 The Committee should meet at least four times a year.
- 7.10 Further meetings may be called by the chairman of the Committee or any other member of the Committee, or at the instance of the internal or external auditors or the Board or the Financial Director, subject to the Committee being in agreement with the circumstances giving rise to the request for such additional meetings.
- 7.11 The number, timing and length of meetings, and the agendas are to be determined in accordance with the annual plan.

Agendas

- 7.12 The annual plan must ensure proper coverage of the matters laid out in the audit committee charter: the more critical matters will need to be attended to each year while other matters may be dealt with on a rotation basis over a three-year period.

8 AUTHORITY

- 8.1 The Committee acts in accordance with its statutory duties and the delegated authority of the Board as recorded in these Terms of Reference.
- 8.2 The Committee has the power to investigate any activity within the scope of its Terms of Reference, specifically any financial affairs within the Company.
- 8.3 Subject to a Board approved process being followed, the Committee may: -
- 8.3.1 interview or seek information from any Company employee, and may call upon the Chairmen of the other Board committees, any of the executive directors, company officers, Company Secretary, or assurance providers to provide it with information;
- 8.3.2 obtain independent outside or other professional advice as it considers necessary to effectively carry out its duties, at the Company's cost; and
- 8.3.3 have reasonable access to the company's records, facilities, employees and any other resources necessary to discharge its duties and responsibilities.
- 8.4 The Committee may form, and delegate authority to sub-committees and may delegate authority to one or more designated members of the Committee.
- 8.5 The Committee, or chairman of the Committee (in the discretion of the Committee), shall, at least once a year, meet individually with the Financial Director, the external auditors, and the internal auditors, without any other executive members of the Board or management in attendance, to discuss matters pertaining to their roles and the functioning of the Audit Committees thereat.
- 8.6 The Committee has decision-making authority in regard to its statutory duties and is accountable in this respect to both the Board and the shareholders.
- 8.7 On all responsibilities delegated to it by the Board outside of the statutory duties, the Committee makes recommendations for approval by the Board.

9 REPORTING

- 9.1 The Committee should report internally to the Board on its statutory duties and duties assigned to it by the Board, and to the shareholders on its compliance with its statutory duties.

10 **EVALUATION**

- 10.1 The Board must perform an evaluation of the effectiveness of the Committee's performance each year.
- 10.2 The Board must consider whether the evaluation of performance should be done in-house, or conducted professionally by independent service providers, subject to legislative requirements.

11 **REVIEW / AMENDMENT**

These Terms of Reference shall be reviewed by the Committee from time to time, and may be amended as required, subject to approval of the Board.