



UMGENI WATER

**CHIEF EXECUTIVE
BOARD CHARTER**

**CE/GOV/TOR/04
Rev.: 6**

BOARD CHARTER

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1. PURPOSE OF THE CHARTER

- 1.1 This charter must be read together with the Public Finance Management Act (PFMA) No. 1 of 1999 (as amended); the Water Services Act No. 108 of 1997, (as amended); Treasury Regulations for Public Entities, 2001,(as amended); the King IV Report on Corporate Governance in South Africa,2016, Protocol on Corporate Governance in the Public Sector 2002, the Companies Act No. 71 of 2008, (as amended – where relevant); Terms of Reference of Board sub-committees; Umgeni Water’s approved Delegations of Authority and the contract of employment of Umgeni Water’s Chief Executive.
- 1.2 The Board of Umgeni Water acknowledges the need for a Board Charter as recommended in the King IV Report on Corporate Governance in South Africa. The purpose of this Charter is to set out the Board’s role and responsibilities as well as the requirements for its composition and meeting procedures.
- 1.3 In discharging its responsibilities, the Board shall adhere to the following principles:
- 1.3.1 integrity;
 - 1.3.2 competence;
 - 1.3.4 responsibility;
 - 1.3.5 accountability ;
 - 1.3.6 fairness;
 - 1.3.7 transparency; and
 - 1.3.8 To the extent required, the Board shall adhere to the guidelines, policies or directives set by the Department of Water and Sanitation (hereinafter referred to as “DWS”).

2. APPOINTMENT AND TERM OF OFFICE

2.1 Appointment

The Minister of Water and Sanitation (hereinafter referred to as “the Minister”) appoints the Board of Directors (“Board Members”), and designates the Chairman in terms of Schedule 1 of the Water Services Act 108 of 1997.

2.2 Term of Office and Re Election

- 2.2.1 Members of the Board are appointed for a period of office determined by the Minister, which period may not exceed four (4) years.
- 2.2.2 The Minister may re-appoint members of the Board and such re-appointment is limited to a maximum of three (3) consecutive terms of four (4) years each.

3. SIZE AND COMPOSITION OF THE BOARD

- 3.1 The size and composition of the Board shall be determined by the Minister. Directors are appointed through a formal process and the Nomination Committee assists with the process of identifying suitable candidates to be proposed to the Minister for appointment.
- 3.2 The Board (which is appointed by the Minister, save for the appointment of the Chief Executive who is appointed by the Board) comprises of non-executive directors who are deemed to be independent non-executive directors.
- 3.3 The office of the Chairman and the Chief Executive shall be separate. There shall be, at all times, a clear distinction in their roles and responsibilities to ensure a balance of authority and power.
- 3.4 The Chairman and all other members of the Board, except the Chief Executive, shall not be an employee of Umgeni Water.
- 3.5 The Chief Executive is an ex officio member of the Board and should he or she cease to occupy the position of chief executive, his/her membership of the Board shall automatically terminate. The Chief Executive, whose membership of the Board terminates, in the manner contemplated in this clause 3.5, may be eligible for appointment as non-executive director by the Minister it should be noted that if he or she is appointed as board member he or she shall not be an independent non-executive director.
- 3.6 The Board, through the Company Secretary, must establish a formal induction programme for new directors and inexperienced directors must be developed through development programmes. It is the responsibility of the individual director to indicate their developmental needs which are relevant to their responsibilities as members of the board. In this regard, where appropriate, the Company Secretary, in consultation with the Chief Executive and Chairperson of the Board may, propose developmental programmes for by directors.
- 3.7 The Board must ensure that continuing professional development programmes are implemented, subject to DWS policies and guidelines, to ensure that directors receive regular briefings on changes, *inter alia*, in risks, laws and the environment.
- 3.8 The Board must ensure that an annual assessment of the Board Members is conducted either through self-assessment or a recognised institution dealing with Board assessments. The outcome of the assessments may be used in determining further training needs of Board Members.

4. PURPOSE AND ROLE OF THE BOARD

The role of the Board is:

- 4.1 To provide effective strategic leadership and control in terms of approving Umgeni Waters' strategy and ensuring control over its operational implementation. The Board is accountable and must take responsibility for both its success and failure.

- 4.2 To represent and serve the shareholder's interests by overseeing and appraising the strategies, policies and the performance of Umgeni Water while taking into account the triple bottom line.
- 4.3 To ensure that Umgeni Water continues to operate as a viable and sustainable going concern for the benefit of its customers, employees, the communities it serves and the shareholder. Therefore, it must ensure that it exercises effective control and provides leadership on material decisions which have an impact on Umgeni Water.
- 4.4 To provide oversight on the human, operational and financial resources available in Umgeni Water to achieve the strategic objectives.
- 4.5 To play a key role in setting, reviewing and monitoring compliance with Umgeni Water's values.
- 4.6 To ensure that the shareholder is kept informed of the organization's performance and any major developments.

5. FUNCTIONS AND RESPONSIBILITIES OF THE BOARD

The Board should:

- 5.1 Provide strategic leadership and direction by establishing clear vision, mission and values and by approving strategy, goals and performance objectives.
- 5.2 Strive to ensure Umgeni Water's integrity and independence from any vested interest.
- 5.3 Have the power to delegate authority to executive management.
- 5.4 Ensure that there is an appropriate balance of power and authority such that no one individual can dominate its decision-making. The Board should follow values and the organisation's Code of Ethics when exercising its authority.
- 5.5 Ensure effective communication between the organization and its internal and external stakeholders.
- 5.6 Ensure balanced and meaningful reporting, that provides a fair reflection of Umgeni Water's performance;
- 5.7 Ensure transparency concerning any matters of significance, interest and relevance to stakeholders.
- 5.8 Act as the focal point for, and custodian of, corporate governance by managing its relationship with management, the shareholder and other stakeholders of Umgeni Water along sound corporate governance principles.
- 5.9 Uphold the principle of strict confidentiality on matters that are tabled and/or discussed during meetings or during official engagements.

6. THE POWERS VESTED IN THE BOARD

Strategic

- 6.1 The Board must appreciate that strategy, risk, performance and sustainability are inseparable and should therefore give effect to this by:
 - 6.1.1 Contributing to and approving the strategy and business plans;
 - 6.1.2 satisfying itself that the strategy and business plans do not give rise to risks that have not been thoroughly assessed by management;
 - 6.1.3 Identifying key performance and risk areas;
 - 6.1.4 Ensuring that the strategy will result in sustainable outcomes;
 - 6.1.5 Considering sustainability as a business opportunity that guides strategy formulation
 - 6.1.6 Evaluating the indicators which form the basis for Umgeni Water’s strategic objectives and policies;
 - 6.1.7 Achieving value for money through the optimal use of available resources;
 - 6.1.8 Taking cognizance of the short, medium and long term needs of the water sector;
 - 6.1.9 Taking into account national and provincial policies, objectives and developments as well as those of the customers;
 - 6.1.10 Ensuring that Umgeni Water has an effective stakeholder communication policy to enable it to communicate openly and promptly with its stakeholders and focus on significant issues relating to the relationship;
 - 6.1.11 Considering and approving any material departure from strategic objectives and policies, including significant re-alignment of the business;
 - 6.1.12 Establishing policies which would enhance the overall performance of Umgeni Water.
 - 6.1.13 Oversee and evaluate management’s performance and implementation of the Board’s strategies and plans;

Financial

- 6.2 The Board shall be responsible for:
 - 6.2.1 Pre-approving and recommending changes in tariffs with respect to rates and charges (levies) to the Minister for final approval;
 - 6.2.2 Approving and recommending to the Minister for approval, the purchase, sale, letting or acquisition of significant immovable property in line with the organisation’s Delegation of Authority;

- 6.2.3 Approving the financial statements prepared in accordance with Internationally Financial Reporting Standards for submission to the Auditor General for auditing, within two (2) months after the end of each financial year;
- 6.2.4 Protecting Umgeni Water's financial wellbeing by striving to be financially sustainable and viable;
- 6.2.5 Approving budgets and business plans and monitoring the progress of major capital expenditure, capital management, acquisitions and divestitures;
- 6.2.6 Reviewing and recording the facts and assumptions which are used to assure the Board that Umgeni Water will continue as a going concern;
- 6.2.7 Formulating and monitoring that the Delegation of Authority framework is aligned to powers conferred;
- 6.2.8 Considering and approving any transaction which falls beyond Delegations of Authority or beyond the authority of any committee of the Board;
- 6.2.9 Ensuring that the financial statements are a true and fair record of Umgeni Water's financial status and that accurate disclosures are made;
- 6.2.10 Ensuring the integrity of Umgeni Water's integrated report;
- 6.2.11 Ensuring proper use and protection of assets.

Statutory, Regulatory and Administrative

- 6.3 The Board should:
 - 6.3.1 Ensure that Umgeni Water complies with applicable laws and consider adherence to non-binding rules and standards;
 - 6.3.2 Provide effective leadership on an ethical foundation;
 - 6.3.3 Ensure that Umgeni Water's ethics are managed effectively;
 - 6.3.4 Ensure that Umgeni Water is a responsible corporate citizen by having regard to not only the financial aspects of the business but also the impact that business operations have on the environment and the society within which it operates;
 - 6.3.5 Promote the implementation and monitoring an effective Equity Plan as required by the Employment Equity Act;
 - 6.3.6 Approve the rules and amendments to pension and provident funds having a material effect on the liabilities of Umgeni Water;
 - 6.3.7 Monitor and review all aspects of occupational health, safety and environmental risks;
 - 6.3.8 Authorize the prosecution, defence or settlement of legal proceedings within the context of the Delegations of Authority;

- 6.3.9 Approve the Board business cycle schedule;
- 6.3.10 Approve the board compliance manual (where available);

Human resources

- 6.4 The Board should:
 - 6.4.1 Implement the remuneration of Board members which is determined by the Minister from time to time;
 - 6.4.2 Every financial year, conduct evaluation of the Board, its Committees and individual directors and develop and implement plans for enhancing directors' competencies;
 - 6.4.3 Approve effective and appropriate corrective steps against the Chief Executive should he / she:
 - 6.4.3.1 Contravene or fail to comply with provisions of the PFMA; WSA or any other applicable legislative or regulatory framework;
 - 6.4.3.2 Commit an act which undermines the financial management, internal control system or the code of conduct of Umgeni Water;
 - 6.4.4 Review the number and nature of non-executive member's commitments on their time to ensure that they are in a position to devote sufficient time in relation to Umgeni Water's affairs;
 - 6.4.5 Act in the best interests of Umgeni Water by ensuring that individual directors:
 - 6.4.5.1 Adhere to legal standards of conduct;
 - 6.4.5.2 Are permitted to take independent advice in connection with their duties following an agreed procedure;
 - 6.4.5.3 Disclose real or perceived conflicts of interests and deal with them accordingly;
 - 6.4.6 Be responsible for the appointment; removal or replacement and succession planning for Executive managers, including the Chief Executive and the Company Secretary;
 - 6.4.7 Reviewing and approving Executive management's (except the Chief Executive's salary which is determined by the Board subject to the Minister's approval) remuneration as recommended by the Human Resources and Remuneration Committee.

7. DELEGATION OF AUTHORITY TO EXECUTIVE MANAGEMENT

- 7.1 The Board has delegated authority for the day to day management of Umgeni Water and its operations to the Chief Executive who in turn may delegate to the Executive managers. The delegation includes, but not limited to the following:

- 7.1.1 The development of business plans, budgets, and strategies for approval by the Board and also the implementation of the plans, budgets and strategies;
- 7.1.2 The operation of Umgeni Water business within the parameters of its mandate;
- 7.1.3 Keeping the board informed of developments in Umgeni Water and the Water Sector;
- 7.1.4 Acquiring the board's approval on matters which exceed the Delegations of Authority assigned to management;
- 7.1.5 Identifying and managing operational risks and formulating strategies for Board approval to manage risks which pose a threat to Umgeni Water's business;
- 7.1.6 Managing, controlling and monitoring Umgeni Water's financial and other reporting requirements to ensure that all relevant material information is reported on a timely basis;
- 7.1.7 Ensuring that the Board receives sufficient information timeously on matters relating to Umgeni Water's corporate, financial and operating performance;
- 7.1.8 Implementing all Board's approved policies, procedures and codes of conduct to ensure that the Board fulfils its corporate governance responsibilities.

8. RELATIONSHIP WITH THE SHAREHOLDER

The Board must:

- 8.1 Familiarize itself with issues of concern to the shareholder to ensure that its strategies are aligned to the national imperatives.
- 8.2 Regularly evaluate the economic, political, social, legal and other external factors or issues that may influence or affect the development of the organization or the interests of the shareholder.
- 8.3 Ensure that the shareholder is timeously provided with all statutory reports and any other information required by the shareholder or delegate such responsibility to management and ensure adherence thereof

9. RELATIONSHIP WITH MANAGEMENT

- 9.1 Management must provide the Board with information which is in a form, timeframe and of quality that will enable the Board to discharge its duties effectively. Members of the Board are entitled to request any additional information when they deem it to be appropriate to assist them to diligently discharge their duties.
- 9.2 The board may meet in the absence of management.
- 9.3 It shall not be the responsibility of the Board to manage day to day activities of Umgeni Water. The Chief Executive must be tasked by the Board through the contract of

employment and Delegations of Authority to manage the day to day activities in the organization.

- 9.4 The Board must approve the corporate objectives for the Chief Executive to achieve.

10. APPOINTMENT OF A COMPANY SECRETARY OR GOVERNANCE PROFESSIONAL

- 10.1 The Board shall approve the appointment, employment contract and remuneration of a qualified and competent Company Secretary or Governance Professional as envisaged by prevailing governance legislation and common law principles to assist the Board in the execution of its Fiduciary Duties.

Functions

- 10.2 The functions of the appointed Company Secretary or Governance Professional shall include but not be limited to -:
- 10.2.1 Providing the Board collectively and individually with guidance as to their duties, responsibilities and powers;
 - 10.2.2 Making the Board aware of any law relevant to or affecting the Organisation;
 - 10.2.3 Reporting to the Organisation’s Board any failure on the part of the Organisation or a Director to comply with its rules, prevailing legislation and governance or common law principles;
 - 10.2.4 Ensuring that Minutes of all Board meetings and the meetings of any Committees of the Board are properly recorded;
- 10.3 The Board shall objectively oversee and assess the performance of the Company Secretary or Governance Professional on a bi-annual basis.

11. POLICY ON CORPORATE GOVERNANCE

The Board should:

- 11.1 Ensure that Umgeni Water adheres to its roles as defined in the Water Services Act 108 of 1997, (as amended).
- 11.2 Complies with all applicable legislations, regulations and standards
- 11.2 Provide leadership through the adherence to strict corporate governance principles which are set out in a variety of statutes and codes
- 11.3 Provide oversight to ensure that management achieve the strategic objectives in a manner which is fair, responsible, transparent and equitable.
- 11.4 Approve and maintain a system for:
 - 11.4.1 Effective, efficient and transparent financial and risk management and internal controls;

- 11.4.2 Internal audit under the control and direction of an Audit Committee;
- 11.4.3 Supply chain management which is appropriate, fair, equitable, transparent, and Competitive and cost-effective;
- 11.5 Approve procedures for quarterly reporting, through DWA to the Minister on actual revenue and expenditure up to the end of the quarter, within 10 days of the end of each quarter;
- 11.6 Approve and recommend the strategic plan & business plan to be submitted to the Minister for approval prior to the commencement of each financial year;
- 11.7 Approve the budget of estimated income and expenditure for the next financial year, prior to it being submitted to the Minister for approval, prior to the commencement of each financial year;
- 11.8 Approve and recommend the details of any of the following intended transactions of which National Treasury must be informed in advance and for which the Minister's approval must be obtained in the manner provided in section 54 of the PFMA or unless specifically exempted by the Minister, for the:
 - 11.8.1 Establishment, or participation in the establishment of an entity;
 - 11.8.2 Participation in or a significant change in the nature and extent of interest in a significant partnership, trust, unincorporated joint venture or similar arrangement;
 - 11.8.3 Acquisition or disposal of a significant shareholding in a company;
 - 11.8.4 Acquisition or disposal of a significant asset;
 - 11.8.5 Commencement or cessation of a significant business activity.
- 11.9 Approve the submission through DWS, within 4 months of the end of financial year, to National Treasury, the Auditor-General and the Minister, of the following, for tabling in Parliament:
 - 11.9.1 An annual report, with contents as prescribed, on the activities and performance of the Board during the previous financial year;
 - 11.9.2 The audited financial statements for the previous year, and
 - 11.9.3 The report of the auditors on those statements.
- 11.10 Approve the submission, on an annual basis to the Minister, National Treasury and the Auditor General of a schedule of:
 - 11.10.1 Outcomes of disciplinary hearings/criminal charges;
 - 11.10.2 Names and ranks of employees involved;
 - 11.10.3 Sanctions against employees.

12. RISK MANAGEMENT

- 12.1 The Board's function regarding risk management is to ensure that there are adequate processes in place to identify, monitor and manage all significant strategic and financial risks.
- 12.2 The Board should identify and monitor risk areas and evaluate the handling of the identified risks via risk-mitigating strategic and operational plans.
- 12.3 The Board should identify and monitor performance indices at organizational level and assess the effectiveness of the organization's systems of control. In addition, the Board has to:
- 12.3.1 Ensure that appropriate risk management framework is implemented and maintained and that risk management, internal controls and regulatory compliance policies and processes are established;
- 12.3.2 Develop a regular plan of audits to be undertaken to test the adequacy of and compliance of the internal controls;
- 12.3.3 Ensure that proper remedial action is undertaken to redress areas of weakness.

13. THE ROLE & RESPONSIBILITIES OF THE CHAIRMAN

- 13.1 The Chairman must:
- 13.1.1 Preside over meetings of the Board and ensure its smooth functioning in the interest of good governance;
- 13.1.2 Provide overall leadership to the Board without limiting the principle of collective responsibility for Board decisions;
- 13.1.3 Lead the Board in a manner that allows its members to behave in a manner consistent to the Board's mandate and that is legitimately imposed upon it by the Minister;
- 13.1.4 Establish procedures to govern the Board's work;
- 13.1.5 Ensure that the Board fully discharges its duties;
- 13.1.6 Together with the Chief Executive, represent (where appropriate) the Board in dealings with various stakeholders;
- 13.1.7 Carry out other strategic assignments (representing the Board) at the request of the Minister, the Board and/or the Chief Executive;
- 13.1.7 Ensure an adequate flow of information to the Board.
- 13.1.8 Take action or seek action against any member who violates the Code of Conduct or disrupts or behaves in an inappropriate manner during meetings.

14. THE ROLE & RESPONSIBILITIES OF THE CHIEF EXECUTIVE

The role and responsibilities of the Chief Executive shall include, but not limited to:

- 14.1 Managing Umgeni Water by striving to achieve the strategic and operational objectives in accordance with the agreed key performance objectives and measures set annually by the Board.
- 14.2 Ensuring that the Board is kept informed of Umgeni Water operations at all times. Accordingly, she or he shall:
 - 14.2.1 Not neglect to submit monitoring data required by the Board in a timely, accurate and understandable manner, to keep the Board fully informed;
 - 14.2.2 Take steps to make the Board aware of relevant trends, anticipate adverse media coverage and contemplate significant external and internal changes, and particularly changes in assumptions upon which any Board strategy has previously been established;
 - 14.2.3 Advise the Board when it is not in compliance with its own governance policies and Delegation of Authority.

Corporate Governance

- 14.3 Preparing submissions to the Board for approval of the following reports/returns to be forwarded to the Minister through DWS in compliance with the PFMA and Treasury Regulations:
 - 14.3.1 Quarterly report
 - 14.3.2 Board strategic plan, incorporating strategic plans to be submitted annually for approval prior to the commencement of each financial year;
 - 14.3.3 A budget of expected revenue and expenditure for the next financial year, submitted annually for approval prior to the commencement of each financial year;
 - 14.3.4 Annual reports on activities of the Board for the previous financial year, accompanied by audited financial statements and the report by the auditors on these statements, within 5 months of the end of the financial year (the report to be submitted simultaneously to the Auditor-General and to the National Treasury).

Human resources

- 14.4 Approving the post establishment for post levels up to senior management, but not Executive management;

- 14.5 Approving the appointment of personnel to post levels up to senior management, but not Executive management;
- 14.6 Approving termination of service of employees in accordance with provisions of relevant labour legislation, up to post level of senior manager, but not Executive management;
- 14.7 Approving the institution of and any amendments to the performance management system;
- 14.8 Approving salary package adjustments for employees in consultation with the Board;
- 14.9 Approving payment of merit bonuses to employees in consultation with the Board;
- 14.10 Approving leave applications of Executive managers;
- 14.11 Approving applications for local and international travel by Executive managers;

Financial matters

- 14.12 Ensuring effective, efficient and transparent financial management, risk management and internal financial control, including the utilization of funds in accordance with approved budgets and monthly reporting of the Board's cash management performance
- 14.13 Developing supply chain management system which is appropriate, fair, equitable, transparent, competitive and cost-effective, for approval by the Board
- 14.14 Ensuring the safeguarding of the assets of Umgeni Water
- 14.15 Facilitating the development of an evaluation system for all major capital projects for approval by the Board
- 14.16 Instituting disciplinary proceedings in the event of alleged misconduct
- 14.17 Approving the financial statements (prepared in accordance with generally accepted accounting practice) for auditing by the Auditor-General within 2 months after the end of the financial year
- 14.18 Approving the provision of information to the Board concerning any of the following intended transactions, to enable the Board to obtain prior Ministerial approval for such a transaction:
 - 14.18.1 Establishment or participation in the establishment of a company
 - 14.18.2 Participation in or a significant change in the nature and extent of interest in a significant partnership, trust, unincorporated joint venture or similar arrangement
 - 14.18.3 Acquisition or disposal of a significant shareholder in a company
 - 14.18.4 Acquisition or disposal of a significant asset
 - 14.18.5 Commencement or cessation of a significant business activity

14.19 Pre-approving quarterly reports for submission to the Board for approval and forwarding to the Minister, through DWA, on:

14.19.1 Actual revenue and expenditure up to the end of the quarter, within reasonable days of the end of each quarter

15. BOARD COMMITTEES

15.1 The Board must establish Board committees which are chaired and constituted mainly of independent non – executive directors, which Committees must include, but not limited to:

- **Audit Committee**
- **Human Resources and Remuneration Committee**
- **Capital, Procurement and Fixed Assets Committee; and**
- **The Governance Committee (ad hoc committee)**

15.2 The Committees' main objective is to support the Board in the fulfilment of its duties and not to fulfil or interfere with managements' functions or activities. By establishing Board Committees the Board is not exonerated from complying with its legal responsibilities.

15.3 The Board shall delegate certain functions to the Committees, but without abdicating its own responsibilities, through formal terms of reference. The terms of reference for each committee should, as a minimum, cover:

15.3.1 Composition

15.3.2 Objectives, purpose and functions

15.3.3 Delegated authorities, including the extent of power to make decisions or recommendations or both

15.3.4 Tenure

15.3.5 Reporting mechanisms to the Board

15.4 The terms of reference of each Board Committee shall be reviewed on a bi-annual basis or when necessity dictates

15.5 The Board may also delegate specific responsibilities to ad hoc committees from time to time as it deems fit.

15.6 The Committees must be appropriately constituted with due regard to the skills required by each committee.

15.5 Prior to each Board meeting, Board Committees must discuss and prepare recommendations to the Board on specific issues pertaining to the Committees' terms of reference.

15.6 The Board must receive, consider and approve recommendations from the Committees

15.7 Chairmen of Board Committees have the right to take action or seek action against any member who disrupts or behaves in an inappropriate manner during meetings.

16. BOARD INDUCTION

16.1 The Board shall, through the Company Secretary, develop an induction programme for new directors. The programme must be aimed at providing an understanding of the business environment, markets, and risks in which Umgeni Water operates.

16.2 The new directors must receive all the essential induction information timeously.

16.3 The directors must keep themselves abreast of developments and trends in the business, political, socio-economic and legal climate in general.

17. BOARD INDEPENDENCE

17.1 A member of the Board is considered to be an independent non – executive director if:

17.1.1 He or she has not been employed by Umgeni Water or any of its subsidiaries in any executive capacity, or appointed as the designated auditor or partner in Umgeni Water’s external audit firm, or senior legal advisor for the preceding three (3) financial years;

17.1.2 He or she is not a member of the immediate family of an individual who is, or has during the preceding three (3) financial years, been employed by Umgeni Water or any of its subsidiaries in an executive capacity;

17.1.3 He or she has not been a professional adviser to Umgeni Water or any of its subsidiaries, other than as a director, for the preceding three (3) financial years;

17.1.4 He or she is free from any business or other relationship (contractual or statutory) which could be seen by an objective outsider to interfere materially with the individual’s capacity to act in an independent manner, such as being a director of a material customer of or supplier to Umgeni Water or any of its subsidiaries;

17.1.5 He or she does not receive remuneration contingent upon the performance of Umgeni Water or any of its subsidiaries.

17.2 The board will review members’ independence annually by way of members completing a disclosure of interest form.

17.3 The independence of members must be disclosed annually in the Umgeni Water Annual Report.

18. REMUNERATION OF THE BOARD

- 18.1 Directors (including co-opted members but with the exception of Board members who are full-time employees of the State) must be paid an allowance (for serving on the Board is viewed as a service to the community) in respect of the performance of their duties.
- 18.2 The allowance referred to in 17.1 will be determined by the Minister.

19. BOARD PERFORMANCE EVALUATION

The Board shall:

- 19.1 Review its performance at collective and individual levels on an annual basis.
- 19.2 Use an accepted self-evaluation tool, designed by an accredited institution to review its performance.
- 19.3 The results of the evaluation should be discussed during a full Board meeting and a clear action plan to improve performance should, if so required, be developed.

20. PROFESSIONAL OR BUSINESS SERVICES PROVIDED BY DIRECTORS

Non – executive directors shall not provide any professional or other services save for the duties set out in this Charter or other governance documents applicable to Umgeni Water or duties that are ordinarily performed by directors in terms of any law.

21. TERMINATION OF OFFICE OF BOARD MEMBERS

- 21.1 The Minister may at any time terminate the membership of any director of the Board.
- 21.2 A Director may terminate his or her membership by submitting a written resignation letter to the Chairman of the Board and in the case of the Chairman resigning, to the Minister.
- 21.3 Poor performance, including failure by a Board member to attend three (3) consecutive meetings of the Board without a proper and acceptable apology may result in the Board requesting the Minister to terminate such member’s membership from the Board.
- 21.4 A Board Member will cease to be a Board member if he or she is:
- 21.4.1 an unrehabilitated insolvent;
- 21.4.2 if he or she has been convicted of any offence involving dishonesty or has been sentenced to imprisonment without the option of a fine.
- 21.4.3 A disqualification under clause 21.4.2 above, ends three years after the sentence has been served,

22. BOARD MEETINGS

Notice of meetings

- 22.1 The Company Secretary or any person authorised by the Board must give written notice of Board meetings to each Director not less than five (5) business days before the meeting.
- 22.2 In case of urgency a Board meeting may be convened by not less than forty-eight (48) hours' written notice before the meeting.
- 22.3 A notice of a Board meeting must include the date, time and place for the meeting.
- 22.4 If there was a material defect in the giving of the notice of a Board meeting, the meeting may proceed only if all Directors are notified of the defective notice and the present Directors constitute a quorum to vote and approve the ratification of the defective notice.
- 22.5 An immaterial defect in the form or manner of giving notice of a Board meeting, or an accidental or inadvertent failure in the delivery of the notice to any particular Director, to whom it was addressed, does not invalidate any action taken at the meeting.
- 22.6 Once the Board approves the annual Board Plan, the approved dates serve the purpose of clause 21.1 and shall immediately thereafter be diarised by the Company Secretariat. It is the responsibility of each board member to align their commitments with the approved Board Plan. If there are changes to the Board Plan, the Secretariat shall issue a notification to that effect timeously and in line with clause 21.1

Board meeting procedures

- 22.7 The members must conduct themselves in a manner which is consistent with their duties and responsibilities to Umgeni Water.
- 22.8 The Board must discipline itself to focus on matters related to strategy and policy.
- 22.9 Discussions at board meetings must be transparent and constructive. The Chairman may seek consensus on a matter but may also call for votes.
- 22.10 All deliberations and records of the Board must remain confidential unless specific authority is given by the Board to the contrary.
- 22.11 The Board shall have sole authority over its agenda. Board members may, in consultation with the Chairman, request the Company Secretary to include items on the agenda for discussion and / or decision by the Board.
- 22.12 The Board must at a minimum consider all the items on the agenda for each meeting.
- 22.13 The Board may make rules in relation to the procedures at meetings including keeping of minutes or other matters that are expedient for the due performance and functioning of the Board.

- 22.14 The Chairman or in his/her absence the Deputy-Chairman (if any), must preside at meetings of the Board at which he/she is present. If both are not present, the Directors present must elect one Director to preside over the meeting.
- 22.15 Each Director shall have one vote on a matter before the Board and in the case of a tied vote, the Chairman may cast a second or casting vote.
- 22.16 At a meeting of the Board, voting may either be by show of hands, or by polling. A polled vote must be held on any particular matter to be voted on at a meeting if a demand for such a vote is made by a majority of Directors present.

Frequency

- 22.17 The Board shall hold regular meetings at a suitable venue as the Board deems appropriate to monitor important issues but must hold at least six (6) meetings annually. Four (4) of the scheduled quarterly meetings must be aimed at discussing statutory matters while the remaining two (2) meetings must be set aside for discussions on strategic matters.

Quorum

- 22.18 Fifty percent plus one (50%+1) of non – executive members who have no interest in the matter being discussed, will constitute a quorum.
- 22.19 Subject to clause 21.19 below, if within one (1) hour after the appointed time for a meeting to begin a quorum is not present, the meeting shall stand adjourned to the same day in the next week, at the same time and place, or if that day be a public holiday, to the next succeeding day other than a public holiday, and if at such adjourned meeting a quorum is not present within one (1) hour from the time appointed for the meeting then the Directors present shall be a quorum.
- 22.20 The Chairman of a meeting that cannot begin due to lack of quorum in terms of clause 21.18, may extend the one (1) hour limit for a reasonable period on the grounds that:
- 22.20.1 Exceptional circumstances affecting weather, transportation or electronic communication have generally impeded or are generally impeding the ability of Directors to be present at the meeting, or
- 22.20.2 One or more particular Directors, having been delayed, have communicated an intention to attend the meeting, and those Directors, together with others in attendance, would satisfy the required quorum.
- 22.21 If the meeting starts with a quorum but reaches a point where it is no longer quorate, then the meeting must be adjourned until the quorum is re-established.
- 22.22 A meeting of the Board may be conducted in a single venue or in more than one venue by utilizing conference telephone facilities or video conference facilities or electronic communication linking different venues, and in the case of more than one venue, the

Directors present at the various venues shall, for all intents and purposes, be deemed to be in each other's presence.

Board Resolutions

- 22.23 The Board may take resolutions at any meeting if the meeting is quorate.
- 22.24 A resolution that could be taken at a meeting of the Board may instead be taken by written consent of a majority of the Directors, given in person or by electronic communication, provided that each Director has received notice of the matter to be decided. A resolution taken in the manner contemplated herein is of the same effect as if it had been taken at a meeting.
- 22.25 Resolutions taken by the Board are effective as of the date of the resolution, unless the resolution states otherwise.

Minutes

- 22.26 The Board must appoint a Company Secretary to provide secretarial and minute taking services and to coordinate all Board and Committee meetings.
- 22.27 All minutes should clearly indicate Board decisions and actions to be followed.
- 22.28 All minutes must be approved by the designated chairman and adopted by the Board during the following meeting
- 22.29 Any minutes of a meeting, or a resolution, signed by the chairman of the meeting, or by the chairman of the next meeting of the Board, is evidence of the proceedings of that meeting, or adoption of that resolution, as the case may be.
- 22.30 Board members must receive the minutes of each meeting of the Board and Committees as part of the meeting pack made available for the following Board meeting.
- 22.31 Agendas of Board meetings must be prepared in consultation with the Chairman.

Attendance

- 22.32 The Chairman may invite any person to attend Board meetings and any such person attending the meeting by invitation may not vote.
- 22.33 Board members must attend all scheduled meetings of the Board, including meetings called on an ad-hoc basis for special matters, unless prior apology has been submitted to the Chairman or Company Secretary.

23. DISCLOSURE, CONFLICT OF INTEREST AND CODE OF CONDUCT

The directors:

- 23.1 Must not use their position as directors, or any information obtained while acting in their capacity as directors to gain an advantage for themselves or for another person; or to knowingly cause harm to Umgeni Water or any of its subsidiaries;
- 23.2 Must communicate to the Board at the earliest practicable opportunity any information affecting Umgeni Water that comes to their attention, unless the director reasonably believes that the information is immaterial or generally available to the public or known to other directors, or is bound not to disclose that information by a legal or ethical obligation of confidentiality;
- 23.3 Must exercise their powers and perform their functions:-
 - 23.3.1 in good faith and for a proper purpose;
 - 23.3.2 in the best interest of the organization;
 - 23.3.3 With the degree of care, skill and diligence that may reasonably be expected of a person carrying out the same functions in relation to the organization as those carried out by that director and having the general knowledge, skill and expertise of that director;
- 23.4 Must disclose any personal financial interest in advance, by delivering to the Board, a notice in writing setting out the nature and extent of that interest, to be used generally until changed or withdrawn by further written notice from that director.
- 23.5 Who have personal financial interest in respect of a matter to be considered at a meeting of the Board, or knows that a related person has a personal financial interest in matter:
 - 23.5.1 Must disclose the interest and its general nature before the matter is considered at the meeting;
 - 23.5.2 Must disclose to the meeting any material information relating to the matter and known to the director;
 - 23.5.3 May disclose any observations or pertinent insights relating to the matter if requested to do so by the other directors;
 - 23.5.4 If present at the meeting, must leave the meeting immediately after making any disclosure contemplated in clauses 22.5.1 to 22.5.3;
 - 23.5.5 Must not take part in the consideration of the matter, except to the extent contemplated in 22.5.2 and 22.5.3; and
 - 23.5.6 Must not execute any document on behalf of Umgeni Water in relation to the matter unless specifically requested or directed to do so by the Board.

- 23.6 Should not engage in any activity that could raise questions as to the Board's integrity, respect for diversity, impartiality or reputation. More specifically, Board members should:
- 23.6.1 Take responsibility and accept accountability for actions and decisions taken by the Board
- 23.6.2 Consider whether the actions of other Directors may be unethical and report conduct which is or appears to be in conflict with the interests of Umgeni Water or the shareholder
- 23.6.3 Not accept or offer business courtesies or gifts, either in cash or in kind, in connection with their duties as Directors
- 23.6.4 Manage their personal affairs in a manner which does not impair or appear to impair the objectivity of any decisions that they make as members of the Board
- 23.6.5 Discourage and refrain from practising nepotism
- 23.6.6 Recuse themselves from any official action or decision-making process which may result in personal gain
- 23.6.7 Not tolerate any form of improper influence, bribery or unethical conduct by stakeholders and to immediately report such conduct
- 23.6.8 Recognize that assets of Umgeni Water, including time, materials, equipment and information are for the sole use of Umgeni Water and not for personal benefit or use
- 23.6.9 Not utilize Umgeni Water's resources, funds, goods or services as contributions to political parties or their candidates, nor make the facilities of Umgeni Water available to such candidates or campaigns
- 23.6.10 Preserve the assets, resources and reputation of Umgeni Water and report any event that may prejudice Umgeni Water
- 23.6.11 Honour the confidentiality of all matters, documents and discussions regarding the board and not use or disclose any official information for personal gain or the gain of others.
- 23.7 Must subscribe to the Code of Conduct at all times. The members must conduct themselves in an ethical and proper manner during meetings and when on Board's business.

24. RIGHT TO SEEK PROFESSIONAL ADVICE

- 24.1 The Board may, at Umgeni Water's costs, obtain such outside advice or other independent professional advice as it considers necessary to carry out its duties.
- 24.2 If any members of the Board require external advice, as contemplated in clause 6.4.5.2, at Umgeni Water's expense, he or she must obtain the Chairman's authorization to do so. The member concerned must provide the Chairman with the following:
- 24.2.1 The reason for seeking the advice;

- 24.2.2 The name of the person or institution from which the advice is sought;
- 24.2.3 A cost estimate for the provision of the advice.
- 24.3 The Chairman must not unreasonably withhold permission to obtain the advice and must inform the Board of the request as soon as possible.
- 24.4 The advice obtained must be made available to Umgeni Water if the costs are for Umgeni Water's account.

25. REVIEW OF BOARD CHARTER

This Board Charter shall be reviewed by the Board on a bi-annual basis or when necessity dictates and no amendments to this Charter shall be of any force or effect without the approval of the Board.

26. INDEMNITY

- 26.1 Umgeni Water shall purchase insurance to protect itself and to indemnify directors against any liability arising from the performance of directors' duties and functions contemplated in section 78 of the Companies Act 71 of 2008.
- 26.2 The indemnity insurance contemplated in clause 25.1 above shall be void to the extent that it directly or indirectly purports to:
 - 26.2.1 Relieve directors of any duty contemplated in clause 22 of this Board Charter, duties contemplated in sections 75 or 76 of the Companies Act, 2008; and any duties imposed on them by the Common law or any governance codes.
 - 26.2.2 Negate, limit or restrict any legal consequences arising from an act or omission that constitutes wilful misconduct or wilful breach of trust on the part of the directors;
 - 26.2.3 Relieve directors of liabilities contemplated in section 77 of the Companies Act 2008.