

TPS EASTERN AFRICA PLC
(“TPSEA” or “the Company”)
BOARD CHARTER
(Revised 2019)

1.0 PREAMBLE

TPS Eastern Africa Plc. is committed to good corporate governance and to complying with legislation, regulations and codes of best industry practice in all jurisdictions in which it has a presence. The Board of Directors (“**the Board**”) subscribes to generally accepted principles of good corporate governance and, in particular, has adopted, as part of its continuing listing obligations, the Capital Markets Authority’s guidelines on good corporate governance practices by public listed companies in Kenya.

2.0 OBJECTIVES OF THE CHARTER

This Board Charter defines the governance parameters within which the Board exists and sets out specific roles and responsibilities of the Board and directors as individuals and collectively.

The Charter is intended to facilitate the full and free exercise of the Board’s mandate and to ensure the effectiveness of each director’s contribution, consistent with the standards of independent judgment, ethics, and integrity, directors are expected to observe.

Whilst the Charter stipulates minimum acceptable standards of conduct, it is critical that, in pursuit of the ideas comprising the Charter, substance should take precedence over form.

COMMITMENT AND INDEPENDENCE

By subscribing to this Charter, each director acknowledges the Company’s core values and commits to upholding them. Therefore, directors commit themselves to taking into account, not only the possible financial impact of their decisions, but also their consequences for the sustainable development of the Company, their effect on relations with stakeholders, and the general interest of the communities in which the Company operates.

Each director undertakes to preserve his/her independence of analysis, judgment, decision and action, and to resist any pressure, direct or indirect, whether by other directors, creditors, suppliers, or, more generally, any third party.

Each director undertakes that, in arriving at a decision on any issue, he or she shall strive to ensure that the decision is in the best interest of the Company and is not driven by personal or any other interest.

DEFINITIONS AND INTERPRETATION

“Board charter” means this document; the Board Charter outlines the role and responsibilities of the Board of directors, powers of the Board and the role of Management, the policies and practices of the Board in respect of corporate governance practices.

“Board member” means a Board member who is a director of the company.

“Board Work Plan” means a document setting out activities of the board over a period of time.

“conflict of interest” means a situation that has the potential to undermine the impartiality of a person because of the possibility of a clash between the person’s self-interest and professional interest or public interest.

“diversity” refers to academic qualification, balance of technical expertise and skill, relevant industry knowledge, experience, nationality, age, race and gender and cultural background;

“executive director” means a member of the Board who also serves as a manager of the company;

“fiduciary” means the legal or ethical relationship between two or more parties.

“fiduciary duties” included duty of care skill and diligence.

“governance audit” means an assessment to determine the degrees of adherence of good corporate governance practices.

“independent director” means a member of the Board of directors who does not have material or pecuniary relationship with the company or related persons , is compensated through sitting fees or allowances, does not own shares in the company and after nine years of service , a continuing independent director ceases to be one and assumes the position of a non-executive director.

3.0 BOARD STRUCTURE

3.1 Size and Composition of the Board

- 3.1.1 The Board shall be constituted to ensure effective and value addition to the Company.
- 3.1.2. The Board shall comprise of not less than five (5) and not more than fourteen (14) directors, unless otherwise determined as provided in the Company's Articles of Association¹.
- 3.1.3 The Board shall be composed of executive, non-executive and independent directors of a diverse nature and demographics.
- 3.1.4 The Board and its committees shall have a balance of skills, experience, independence and knowledge of the Company and its business, to enable them discharge their respective duties and responsibilities effectively².
- 3.1.5 The Board shall be structured in a way that ensures it has different skills, expertise, independence and knowledge of the Company and its business.
- 3.1.6 All directors recognize that they are collectively responsible to the shareholders for the performance of the Company, irrespective of a director's special expertise and knowledge, and regardless of whether a director is an executive, non-executive or independent director.

3.2 Appointments to the Board

- 3.2.1 There shall be a formal and transparent procedure in the appointment of directors. All appointments shall be coordinated by the Nomination & Remuneration Committee (NRC) of the Board which shall recommend new nominees to shareholders through the Board.

The responsibility of appointing directors to the Board shall rest in the shareholders after considering the recommendations of the NRC³.

All persons offering themselves for appointment as directors should disclose any potential area of conflict that may undermine their position or service as directors.

¹ Article 99 of the Company's Articles of Association

² Clause 2.2 of the CMA Code of Corporate Governance Practices for Issuers of Securities to the Public, 2015 (CMA guidelines 2015)

³ Clause 1.1.6 of CMA guidelines 2015

All directors shall be given Letters of Appointment upon joining the Board⁴.

3.2.2 Board Diversity

The Company recognizes and embraces the benefits of having a diverse Board to enhance the quality of its performance. The Board shall consider Diversity during Board appointments and all appointments shall be based on merit and against objective criteria which shall include and is not limited to the following standards:

- i. integrity and standing in society;
- ii. balance among executive, non-executive, and independent directors;
- iii. diversity;
- iv. literacy and competence in diverse business and management fields;
- v. track record of high performance;
- vi. ability to exercise sound independent judgment;
- vii. good communication skills;
- viii. leadership qualities; and
- ix. succession planning.

3.2.3 The NRC will formulate measurable objectives for achieving diversity on the Board

3.2.4 The NRC shall undertake an annual review of the Board's composition and performance to ensure that⁵:

- i. the membership mix is appropriate and compatible with the needs of the Board and Company business;
- ii. non-executive directors devote adequate time and contribute effectively to the affairs of the Company; and

⁴ Clause 2.1 of the NRC Terms of Reference

⁵ Clause 2.1 of the NRC Terms of Reference

iii. executive directors' performance is satisfactory.

3.2.5 The Company shall disclose the directors' details and performance in the annual report.

3.2.6 To ensure effective participation in the Board's business, a director shall not hold a position of directorship in more than three (3) listed companies at any one time and the Chairman shall not hold such position in more than two (2) listed companies. Interlocking directorships in respect of alternate directors shall be limited to three (3) listed companies⁶.

3.2.7 The Company shall within 24 hours make a public announcement of the appointment of a director and/or secretary as required under the Fifth Schedule of Continuing Obligations and Miscellaneous Provisions of the Capital Markets (Securities) (Public Offers, Listing and Disclosure) Regulations 2002.

3.3 Removal of Directors

3.3.1 The office of director shall be vacated by statute, death or under the provisions of Article 105 of the Company's Articles of Association.

3.3.2 The termination of an employment contract of an executive director shall result, *ipso facto*, in the termination of his/her membership of the Board, unless the Board determines otherwise.

3.3.3 The Company shall announce the resignation by a serving director in accordance with CMA Fifth Schedule of Continuing Obligations and Miscellaneous Provisions of the Capital Markets (Securities) (Public Offers, Listing and Disclosure) Regulations 2002 and shall disclose the resignation in the Annual Report, together with the reasons necessitating the resignation.

3.4 The Chairman and Chief Executive Officer

3.4.1 The Chairman and Chief Executive Officer ("**the CEO**") shall be appointed in accordance with the Company's Articles of Association.

3.4.2 The Chairman shall be a non-executive Board member.

3.4.3 There shall be a clear separation of the role and responsibilities of the Chairman and the CEO.

⁶Clause 2.1.6 of CMA guidelines 2015. .

- 3.4.4 The functions of the Chairperson and the CEO shall not be exercised by the same individual.
- 3.4.5 The Chairman's primary role is to direct the Board's business and act as its facilitator and guide, ensuring the Board is effective in its task of setting and implementing the Company's corporate policies and strategies and programmes. The Chairman's responsibility shall more specifically include:
- i. providing overall leadership to the Board;
 - ii. determining the agenda and ensuring that the directors receive accurate, timely and clear information of business to be transacted at Board meetings;
 - iii. chairing and efficiently conducting Board meetings and shareholders annual general meetings;
 - iv. maintaining close but independent working relationship with the CEO;
 - v. acting as an information link between the Board, Management and shareholders;
 - vi. harnessing the collective skills of the Board and the executive team;
 - vii. facilitating an enabling environment conducive to free and open discussions;
 - viii. facilitating the Board's performance evaluation process;
 - ix. guiding the Board's decision-making process and where necessary using his/her casting vote; and
 - x. ensuring, in consultation with the NRC, that effective induction and training programmes for directors are developed and implemented and monitoring the overall activities and performance of the Board and its Committees.
- 3.4.6 The CEO shall be responsible for the day-to-day running of the Company's business as well as the following:
- i. initiating the formulation of the Company's policies and strategies and presenting them to the Board for necessary deliberations and approval;

- ii. implementing and communicating the policies and strategies approved by the Board;
- iii. preparing business proposals and budgets and submitting them to the Board for necessary deliberations and approval;
- iv. achieving the Company's financial and operating goals and objectives;
- v. ensuring continuous improvement in the quality and value of the products and services provided by the Company;
- vi. overseeing human resource matters, including hiring and firing of senior Management staff falling within Category A to C, and ensuring that the Company has an effective management team structure and succession plan;
- vii. maintaining proper internal controls;
- viii. maintaining a conducive working environment for attracting, retaining and motivating staff; and
- ix. nurturing a corporate culture that promotes ethical practice.

3.4.7 The Board shall have a clear succession plan for the Chairman and the CEO to avoid undue disruptions that may be caused by unplanned and sudden departures that could undermine the Company's and shareholders' interests.

3.5 Alternate Directors⁷

3.5.1 Any director (the substantive director) may at any time nominate only one Alternate director who shall be subjected to vetting by the Nomination and Remuneration Committee. The Alternate director shall act in place of the substantive director at any meetings of the Board at which the substantive director is unable to attend. The alternate director shall be entitled, in the absence of the appointer, to exercise all the rights and powers of a director and to attend and vote at meetings at which the substantive director is not personally present and where the alternate is a director, to have a separate vote on behalf of the substantive director in addition to his own vote.

⁷ Articles 103 to 105 of the Company's Articles of Association and Clause 2.1.7 of the CMA guidelines 2015.

- 3.5.2 Any Alternate director shall *ipso facto* cease to be an Alternate director if the appointer ceases to be a director or if the appointment is revoked or if he/she resigns.
- 3.5.3 Alternate directors shall be deemed to be directors for all intents and purposes and therefore have obligations imposed on the substantive directors and shall therefore be bound by the provisions of this Board Charter.
- 3.5.4 Alternate directors shall not be appointed as members of the audit committee.

3.6 Term

All independent and non-executive directors, including the Chairman shall be required to retire by rotation at regular intervals at the end of every three (3) years with a proviso that they may offer themselves for re-election on the basis of pre-determined policies and criteria for a period of not more than nine (9) years cumulative term irrespective of whether the service is consecutive or at intervals⁸.

The executive directors shall be on fixed-term contracts which shall be based on pre-agreed performance criteria.

Directors shall retire at the age of 70 years. However, shareholders may at an annual general meeting extend the director's term if he has attained the age of 70 years.

4. BOARD MEETINGS

4.1 Frequency of Board meetings

The Board shall develop and maintain reporting and meeting procedures for itself and its Committees as it thinks fit. Regular Board meetings shall be held at least four (4) times a year on dates and at venues agreed by the directors. Unless otherwise agreed, the meetings shall take place in Nairobi. A schedule of meetings shall be provided to the directors as part of the Annual Board Work Plan at the beginning of every Calendar year.

4.2 Notification of meetings and Agenda

The Company Secretary shall, in consultation with the Chairman and the CEO, be responsible for issuing notices of Board meetings and circulation of relevant

⁸ Clauses 2.1.8 and 2.4.2 of CMA guidelines 2015.

Board papers. The Agenda and Board papers shall be circulated at least seven (7) calendar days in advance of the meeting to allow directors sufficient time for review before the meeting.

The Board has sole authority over its Agenda and exercises this through the Chairman. Any member may request the addition of an item to the Agenda through the Chairman. The Chairman, working with the CEO and the Company Secretary, shall set the Agenda.

4.3 Attendance at Board meetings

The quorum for transacting the business of the Board may be fixed by the directors and unless so fixed shall be six (6) directors present in person or through Alternates.

4.4 Board Minutes

The Company Secretary shall be responsible for taking notes and preparing minutes of all Board meetings. Such minutes shall provide an accurate record of the directors' and all invited persons'/professionals' contributions present at meetings, the resolutions passed, and proceedings at the meetings. Minutes of all Board meetings shall be considered at subsequent Board meetings, approved and signed by the Chairman of the meeting. The draft minutes shall be circulated to directors for comments two (2) weeks after the respective Board meeting and shall be considered, approved and signed by the Chairman of the meeting.

4.5 Decision at Board meetings

The Board shall endeavor to arrive at decisions through consensus. Questions arising at any meeting shall be determined by a majority of votes of the directors present and in the event of a tie, the Chairman shall have a second or casting vote.

5. ROLE OF THE BOARD

- 5.1 The Board of directors shall assume primary responsibility of fostering the long-term business of the Company consistent with its fiduciary duties and legal responsibilities to the shareholders. The Board shall accord sufficient time to its functions and act on a fully-informed basis while treating all shareholders fairly in the discharge of the following responsibilities, among others:
 - i. define the Company's Mission, Vision, Values, goals, plans, objectives, strategies, and risk policy;
 - ii. ensure accountability and stewardship of resources within the Company;
 - iii. oversee the Company's corporate management, operations, accounts, major capital expenditures, corporate performance, and strategies at least on a quarterly basis;

- iv. identify corporate business opportunities as well as principal risks in its operating environment, including implementation of appropriate measures to manage such risks or anticipated changes likely to impact on the Company's corporate business;
- v. ensure the efficient management of the Company and development of appropriate staffing and remuneration policies, including appointment of the CEO and senior staff;
- vi. ensure that the Company has developed succession plans for its directors and senior management;
- vii. review on a regular basis the adequacy and integrity of the Company's internal controls, acquisitions and divestitures and management information systems;
- viii. ensure that the Company complies with all relevant laws, regulations, rules and guidelines;
- ix. establish and implement a system that provides necessary information to the shareholders, including shareholder communication policy for the Company;
- x. take into consideration the interests of the Company's stakeholders by maintaining an effective disclosure and communication system with all stakeholders;
- xi. approve the Company's annual budgets;
- xii. ensure the Company has developed an effective Corporate Social Responsibility programme;
- xiii. evaluate regularly its performance and effectiveness as a whole and that of individual directors, including the CEO, the Chairman and the Board Committees;
- xiv. monitor the adequacy and effectiveness of the Company's governance structures; and
- xv. monitor and manage potential conflict of interest at management, Board, and shareholder level.

5.2 In discharging their above responsibilities, directors are expected to have the following attributes:

- i. act in good faith and in a transparent and professional manner, having regard to their fiduciary duties and responsibilities to the shareholders;
- ii. exercise independent judgment in the interests of the Company; and
- iii. apply themselves diligently to the business of the Company.

6. BOARD COMMITTEES

To enable the Board to effectively discharge its duties, the Board shall form Committees of its members and delegate specific mandates to such Committees. The Committees shall conduct their business in accordance with their Terms of

Reference approved by the Board and contained in the respective Board Committee Charter or Terms of Reference as the case maybe⁹.

The Board shall establish the following Committees as a minimum and delegate to them specific mandates detailed in Appendix I and II¹⁰.

- Audit Committee
- Nomination & Remuneration Committee

7. CONFLICT OF INTEREST

- 7.1 The directors are under a fiduciary duty to act honestly and in the best interest of the Company. To this end, directors shall avoid putting themselves in a position where their self-interest conflicts with their duty to act in the best interests of the Company.
- 7.2 Directors, their immediate families, and companies where directors have a controlling interest may only transact business with the Company on arm's length basis. All such transactions shall be recorded in the register of Directors' Interests and reported at each Board meeting.
- 7.3 It shall be the duty of a director to disclose any area of conflict of interest or potential conflict of interest that may undermine his/her position as director. Directors shall, on an annual basis, make a declaration that they have not in any way transacted business with the Company or conducted their affairs in any manner resulting or likely to give rise to a conflict of interest.
- 7.4 The Company Secretary shall maintain a register of directors' personal interests to provide a formal record of interests that may conflict with Company's interests
- 7.5 The following options may be considered in resolving conflicts of interest:
- i. Disclosing the conflict: A director shall disclose the nature of a conflict which shall be recorded in the minutes of Board meetings and the register referred to in Paragraph 7.4 above.
 - ii. Refraining from discussion: If a director is conflicted then such a director shall excuse himself from the proceedings of the Board meetings where the matter creating such a conflict or potential conflict is discussed.

⁹ Clause 2.2.2 of CMA guidelines 2015

¹⁰ Appendix I - AFC Terms of Reference
Appendix II - NRC Terms of Reference

- iii. Resignation: In the event that the conflict is major, for instance where a director or a member of his/her family is involved in a competing business, such director may be asked to resign from the Board.

- 7.6 The provisions of conflict of interest herein stated shall be complementary to the provisions relating to this subject in the Company's Articles of Association and the Companies Act 2015.

8. DECISION MAKING

- 8.1 Directors are encouraged to hold discussions openly and constructively, recognizing that genuinely-held differences of opinion could, in such circumstances, bring greater clarity and lead to better decisions.
- 8.2 Each director commits himself/herself to expressing his/her views in a forthright manner and to using all means at their disposal to convince the Board of the validity of their position should they hold that a proposed Board decision is not in the best interest of the Company.
- 8.3 The Chairman shall facilitate free, fair and open discussions on all matters tabled for consideration. He shall use his best endeavors to seek consensus in Board decisions, failing which he shall call for a vote.
- 8.4 The Company Secretary shall keep a register of all decisions that are voted upon and the votes of the respective directors.

9. CONFIDENTIALITY

- 9.1 Information concerning the Company which is communicated orally or in Board papers to directors in confidence in connection with their functions is provided *intuit personae* (in consideration of the person). Directors must personally take the necessary precautions to respect the confidentiality of such information and not divulge it under any circumstances. This personal responsibility applies equally to any Alternate directors.
- 9.2 The Company Secretary shall ensure that any employee, consultant or invitee attending Board/Committee meetings is aware of this duty of confidentiality and is bound accordingly.

10. DIRECTORS REMUNERATION

- 10.1 The Board shall establish a formal and transparent procedure for working out the remuneration of directors. The Board shall be responsible for reviewing the directors' remuneration and approving changes from time to time as recommended by the NRC.

10.2 In considering compensation for non-executive directors, the Board shall consider the following:

- i. remuneration shall be sufficient to attract and retain highly qualified directors;
- ii. remuneration that is aligned with the business strategy and long term objectives of the Company;
- iii. the remuneration is competitive and in line with the other directors of companies of a similar size and industry; and
- iv. the number of meetings in the year.

10.3 Executive directors' remuneration shall be competitively structured and linked to performance.

10.4 Executive and non-executive Directors' remuneration shall be disclosed in the Annual Report and approved by shareholders.

11. DIRECTORS' ORIENTATION AND TRAINING

11.1 Newly appointed directors shall undergo a comprehensive, formal and tailor-made induction programme to enhance their effective contribution to the work of the Board and its Committees. The induction shall cover the nature of the Company's business, organizational structure, Board and Committee mandates, key strategies, Board practices and procedures as well as the role, duties, and responsibilities of directors, among others. The induction process shall be coordinated by the CEO and the Company Secretary.

11.2 All directors shall also receive continuing training to extend and refresh their knowledge and skill which add to their credibility and effectiveness in the discharge of their responsibilities. All directors shall, in particular and as a minimum, undergo formal training and certification in corporate governance. Training is further required due to the weighty responsibilities placed upon directors to enhance the level of commitment called for and due to the fast changes in the corporate environment requiring directors' preparedness .

11.3 The Company shall provide the necessary resources for implementing such training programmes.

12. PERFORMANCE EVALUATION

- 12.1 The Board shall have in place a process of a formal self-evaluation of its performance after every one (1) year. The primary purpose of the self-evaluation is not only to enhance the performance, effectiveness, and contribution of each director, but also to improve the effectiveness of the Board as a whole. The formal self-evaluation shall not replace informal feedback on performance on an ongoing basis.
- 12.2 The self-evaluation shall cover the performance of the Chairman, CEO, individual directors, the Company Secretary, and the Committees.
- 12.3 The self-evaluation process shall address, as a minimum, the key areas contained in Appendix III¹¹
- 12.4 The results of the self-assessment shall be used to determine the strengths and weaknesses of the Board, identify any skills gaps in the composition of the Board, and provide important inputs for appointments, re-appointments, and specific training needs of directors.

13. ACCOUNTABILITY AND AUDIT

- 13.1 Financial Reporting – The Board of Directors is responsible for:
- i. ensuring that qualified, competent, fit and proper persons are employed to undertake accounting and financial responsibilities;
 - ii. ensuring the integrity and adequacy of the Company's accounting and financial systems;
 - iii. ensuring the Company complies with applicable accounting standards and regulatory framework.
- 13.2 The Board shall present to the stakeholders, annually, a balanced and understandable assessment of the Company's financial position and prospects. The Directors shall explain in the Annual Report their responsibility for preparing the accounts and express their opinion on whether the Company remains a going concern, with supporting assumptions or qualifications as necessary.

14. RISK MANAGEMENT AND ASSESSMENT

The Board shall develop an Enterprise Risk Management Policy that will identify and put in place mitigation factors of all potential risks.

¹¹ Appendix III – Board Performance Evaluation Template

15. INTERNAL CONTROLS

The Board is responsible for the Company's systems of internal controls. It shall set appropriate policies on internal controls, and shall regularly (at least annually) conduct a review of the effectiveness of the Company's systems of the internal controls, and confirm to the shareholders the position. The review shall cover all material controls, including financial, operational compliance, as well as risk management procedures. The Board shall further ensure that the system of internal control is effective in managing risks in the manner in which it has approved.

The Board shall ensure that a Corporate Governance Audit is carried out once every year by a Certified Corporate Governance Auditor and Legal and Compliance Audit is carried out after every two years by a competent legal practitioner.

16. INSIDER TRADING

The Capital Markets Authority Act (the 'CMA Act') has prescribed certain regulations that expressly prohibit the use of unpublished insider information. The Company has an Insider Trading Policy ("the ITP")¹² in place that is in line with the CMA Act and directors are expected to act in strict compliance with the insider trading rules and regulations set out in the ITP and in the Act. Accordingly directors shall not, directly or indirectly, buy or sell shares in the Company while in possession of insider information or disclose inside information to anyone within or outside the Company.

17. BOARD WORK PLAN

17.1 The Board shall prepare a Board Work Plan to guide the Board activities planned for each financial year. The Board Work Plan will review:

- i. management implementation of strategies, policies and plans
- ii. risk assessment and management
- iii. budgeting and financial management
- iv. quality assurance processes
- v. Board Evaluation

¹² Appendix IV

- vi. Strategic planning and review
- vii. Governance and compliance
- viii. Competence development for Board Members and
- ix. special projects and other principal areas of focus in that year

17.2 Each year's Work Plan shall be presented to the Board for approval at the commencement of each Calendar year.

18. CORPORATE SOCIAL RESPONSIBILITY

The Board shall develop a sustainable Corporate Social Responsibility Policy (the CSR Policy). The CSR Policy shall as a minimum provide for allocation and spread of the CSR activities to be carried out in the respective Calendar year by the respective units.

19. STAKEHOLDER MANAGEMENT

19.1 The Board recognizes that stakeholder relationships should be managed in a proactive manner to ensure realisation of legitimate interests and expectations and the achievement of corporate objectives. Good stakeholder management promotes goodwill and promotes positive image.

19.2 The Board shall develop a policy that will identify key stakeholders and continuously engage them to meet their expectation in decision making.

19.3 The Board will ensure disputes with stakeholders are resolved effectively, efficiently and expeditiously.

20. PROCESS OF REVIEW OF THE BOARD CHARTER

The Board shall review this Charter as and when deemed necessary to ensure it remains relevant to the Company's business objectives and best practices for corporate governance.

21. MEMORANDUM AND ARTICLES OF ASSOCIATION¹³

This Charter is subject to Company's Articles of Association and in the event of any conflict or inconsistency between the provisions of this Charter and those in the Articles of Association, the provisions of the latter shall prevail.

NOTES

This Charter and the Company's Articles of Association are subject to the Companies Act, 2015 and the Capital Markets Authority Act (Cap 485A of the Laws of Kenya) in so far as it applies to the Company.

In the event of conflict between the Charter, the Articles of Association of the Company and the Companies Act, the Companies Act shall prevail.

Reference to the Legislation and the Articles will apply to its subsequent amendments.

Signed  08th MARCH, 2019

CHAIRMAN

TPS EASTERN AFRICA PLC

¹³ Appendix V