

National Solid Waste Management Authority

Foreword

Jamaica's National Vision 2030, to which all of us who live in this country aspire, declares "*Jamaica, the place of choice to live, work, raise families and do business*". The growth and development of our beloved Jamaica cannot be achieved without an efficient and effective public sector which delivers on its mandate to the Jamaican public. Fundamental to the effectiveness and efficiency of any organization, whether public or private, is good corporate governance. Proper corporate governance increases accountability and transparency; it shines a light on corruption and inefficiency and explicitly articulates the organization's values and ethics starting from the Board of Directors and flowing through to all the persons working within the organization. Proper governance ensures that roles and responsibilities are clearly articulated and by extension there is no doubt as to where accountabilities lie.

The Government of Jamaica has approved and promulgated the Corporate Governance Framework for Public Bodies which details the corporate governance principles which are to apply to all public bodies in Jamaica. Through the Ministry of Finance, the government continues to lead the implementation of corporate governance best practices within the public sector. The challenge for each organization is to operationalize the Framework by creating and implementing the necessary policies.

The Board of Directors of the National Solid Waste Management Authority (NSWMA) has taken up the challenge and has developed this Board Charter to govern its operations and to which it can be held accountable.

As set out in the Charter, the Board of the NSWMA is committed to maintaining the highest levels of integrity, transparency and accountability in all operations of the NSWMA and will ensure the maintenance of high ethical standards by all members of the Board and all employees in tandem with the organization's core values of:

Accountability
Team work
Transparency
Integrity
Respect
Excellence

The NSWMA is well aware of the critical role which it plays in maintaining public and environmental health and the team is committed to fulfilling the Authority's mandate "to keep Jamaica clean" and to serving the public with excellence and integrity showing due respect to all our valued stakeholders especially the taxpayers of this nation.

Dennis Chung
Chairman, Board of Directors

Camille Facey
Chairman, Corporate Governance Committee

December 4, 2015

NSWMA BOARD CHARTER

Contents

PREAMBLE:.....	6
CONSTITUTION OF THE NSWMA:	6
CORPORATE GOVERNANCE FRAMEWORK.....	7
GOVERNANCE STATEMENT.....	7
BOARD MANDATE	8
Board Profile	9
Number of Members.....	9
Independence of Directors	10
BOARD APPOINTMENT, QUORUM AND TERM OF OFFICE	11
Appointment of Directors	11
Board Induction Programme.....	11
Quorum	12
Tenure of Office and Reappointment	12
Resignation.....	12
CHAIRMAN OF THE BOARD	13
Duties of Chairman	13
Responsibilities of the Chairman	14
DUTIES OF DIRECTORS	14
Expectations of a Director.....	14
Specific Conduct as a Director	15
Duty to act properly	15
Potential Conflicts of Interest	16
Notice of Outside Positions.....	16
CONFLICTS OF INTEREST OF DIRECTORS.....	16
Duty to Disclose	16
Related Party Transaction	16
Abstention by Conflicted Party	17

Requirements to Approve Conflicts of Interest	17
CONFIDENTIALITY.....	17
Principle of Confidentiality.....	17
Notice of Disclosure	18
REMUNERATION OF DIRECTORS.....	18
CORPORATE SECRETARY	18
Appointment.....	18
Role	18
General Access	18
Responsibilities	18
COMMITTEES, MEMBERSHIP & REPORTING.....	19
Establishment of Committees.....	19
Co-opted members & Invitees	19
Ex-Officio Members	20
Board Responsibility for Committee Action.....	20
Committee Reporting.....	20
Committee Terms of Reference	20
DUTIES AND PERFORMANCE OF THE BOARD	21
General Duties of Board.....	21
Duties of the Board in relation to members	21
Responsibilities of Board.....	21
The Board acts in the interest of the NSWMA.....	21
Quality of Performance.....	21
Action in Concert.....	21
Provision of Information	21
Responsibility for Securing Information	22
Access to Records.....	22
Use of Experts	22
DUTIES REGARDING THE SUPERVISION OF MANAGEMENT	22
Nature of Supervision	22
Financial Reporting	23
Annual Risk Review	23

Resolutions Subject to Approval	23
ANNUAL EVALUATION	23
Board & Director Evaluation	23
Executive Director & Corporate Secretary Evaluation	23
SUPERVISION OF FINANCIAL REPORTING	24
General Supervision Responsibilities	24
Appointment of External Auditor	24
Representation by External Auditor:	24
Compensation of Auditor:.....	25
Attendance of External Auditor:	25
Contact with External Auditor.....	25
Reports to the Board.....	25
Assessment of External Auditor	25
Conflicts of Interest – External Auditor.....	25
STRUCTURE OF BOARD MEETINGS	26
Notice and Agenda.....	26
Venue of meetings.....	26
Frequency of Meetings	26
Special Meeting.....	27
MEETING ATTENDANCE & PREPARATION.....	27
Attendance of Directors.....	27
Attendance by Executive Director & Management	27
Undue Absence	27
Leave of absence.....	27
COMMUNICATION	27
Minutes & Records.....	28
Resolutions & Adoption at Meeting.....	28
Round Robin Resolutions for the Board and its committees.....	28
Objection to Resolutions.....	29
Individual Vote	29
Majority Vote	29
Emergency Procedures	29

MISCELLANEOUS 29

Restriction on Loans and Guarantees 29

Agreement to be bound by Charter 29

Indemnity 30

Occasional Non-Compliance 30

Seal 30

Interpretation..... 30

Partial Invalidity 30

Entire Charter & Amendment 30

PREAMBLE:

The National Solid Waste Management Authority (hereinafter called the NSWMA or the Authority) is a Body Corporate established by virtue of the National Solid Waste Management Act of 2001 (“The Act”).

The statutory functions of the NSWMA as set out in sections 4 (1) (a) and (b) of the Act are:

- (i) effective management of solid waste in Jamaica to safeguard public health;
- (ii) ensuring that waste is collected, stored, transported, recycled, reused or disposed of in an environmentally sound manner;
- (iii) promotion of safety standards in relation to such waste;
- (iv) promotion of public awareness of the importance of solid waste management;
- (v) to foster understanding of the importance of conservation, protection and proper use of the environment.

CONSTITUTION OF THE NSWMA:

The Constitution of the National Solid Waste Management Authority (herein referred to as “the Constitution”) is outlined in Schedule 1 of the Act; and this document shall not supersede the constitution of the NSWMA but shall be read in conjunction with the Constitution and rules developed for the proper functioning of the Board such as the Board Operating Procedures. The Board of Directors of the NSWMA is hereinafter referred to as “the Board.”

These provisions are complementary to the requirements regarding the Board and members of the Board of Directors (“Directors or Director as the context may require”) contained in Jamaican legislation, such as The Public Bodies Management & Accountability Act, other applicable laws and regulations, Government Of Jamaica (GOJ) policies including the Corporate Governance Framework for Public Bodies, and the provisions governing the relationship between the committees and the Board as contained in the Charters also called Terms of Reference (TOR) of the committees which have been adopted by the Board.

1. CORPORATE GOVERNANCE FRAMEWORK¹:

The Corporate Governance Framework for Public Bodies in Jamaica provides that:

- 1.1. The Board is collectively responsible for strategic management and oversight, serves as the focal point for Corporate Governance and is accountable to the Responsible Minister & Shareholder representatives.
- 1.2. The Board is responsible to ensure compliance with the Public Bodies Management & Accountability Act, and other applicable legislations and GOJ policies.

2. GOVERNANCE STATEMENT:

2.1. Governmental portfolio responsibility for the operation of the NSWMA is the purview of the relevant Minister. The operations of the NSWMA are structured to ensure compliance with the Act and the Public Bodies Management and Accountability Act.

2.2. The Board of NSWMA has been given the statutory mandate to assume responsibility for the policy and general oversight of the affairs of the NSWMA. The Board, through the Chairman, works closely with the portfolio Minister of Government who has the power to issue general directions on matters of policy.

2.3. The Board is committed to maintaining the highest level of transparency, accountability and integrity in all operations of the NSWMA and will ensure the maintenance of high ethical standards by all employees and members of the Board of Directors which are in tandem with the organization's core values of:

Accountability

Team Work

Transparency

Integrity

Respect

Excellence

¹See section 6 of the Public Bodies Management & Accountability Act which requires Boards of Directors to establish appropriate corporate governance policies and procedures.

2.4. Each Director is required to act honestly and in good faith and to ensure that the organisation carries out activities within its prescribed purpose. Additionally, the Board has collective responsibility for all strategic decisions made by the Board.

3. BOARD MANDATE:

The Board shall supervise the management of NSWMA's business and affairs, and shall take a leadership role in the development of NSWMA's strategic direction.

More specifically, the Board's mandate includes:

- (a) regularly reviewing with Management the strategic environment, the emergence of new risks and opportunities and the implications for strategic direction;
- (b) approving strategic plans that take into account NSWMA's major risks and opportunities and overseeing the management of those risks;
- (c) facilitating discussions and approval of financial operations, policy issues, corporate governance principles and all other matters relating to the effective and efficient operations of the NSWMA;
- (d) facilitating effective governance of the affairs of the NSWMA;
- (e) putting policies in place to ensure the NSWMA is duly diligent in meeting all requirements and obligations under law;
- (f) appointing, monitoring and assessing the performance of the Executive Director; charging the Executive Director with the general management and direction of the business and the affairs of the Authority;
- (g) ensuring the formulation, development and implementation of succession planning and evaluation for all senior management;
- (h) ensuring that adequate and effective policies and systems are in place to monitor financial reporting, internal controls and risk management processes;
- (i) reviewing and approving the administrative and operational structure of the organization;
- (j) providing systematic reviews of systems and structures in place at the organization;
- (k) establishing and monitoring annual targets for the NSWMA in line with the long term goals of the organisation and maintaining oversight of the general business of the NSWMA;

- (l) approving the annual budget and financial statements/accounts and monitoring financial performance to ensure the financial viability of NSWMA and the efficient and effective use of its resources;
- (m) approving expenditure within stipulated limits;
- (n) ensuring that the integrity and core values of the organization are maintained;
- (o) establishing and maintaining a policy of director orientation for all new Directors; and
- (p) providing director development and educational programmes as required.

4. BOARD COMPOSITION; APPOINTMENT & TERM:

4.1. BOARD PROFILE, SIZE, AND INDEPENDENCE:

Board Profile:

- 4.1.1.** The Board, through the Corporate Governance Committee, shall prepare a profile of its size and composition, considering the nature of the NSWMA's business, and the desired expertise and background of the Directors(the "Board Competency Profile").

Number of Members²:

- 4.1.2.** The Board shall have a maximum of 11members to include:
- (a) a representative of the Ministry with portfolio responsibility for Local Government;
 - (b) a representative of NGO concerned with the conservation and protection of the environment; and
 - (c) a representative of Jamaica Institution of Engineers.

General Composition:

- 4.1.3.** The Board shall use its best efforts to ensure that:
- (a) its members can act critically and independently of one another;

² NSWMA Constitution section 1; based on the Corporate Governance Framework for Public Bodies, Principle 7(3) the Permanent Secretary will not serve on the Board but will instead appoint a representative.

- (b) each Board member can assess the broad outline of the NSWMA's overall policy;
- (c) each Board member has sufficient expertise to perform his or her role as a Board member within the Board Profile;
- (d) the Board matches the Board Profile; and
- (e) no fewer than five of the Directors are independent.

Independence of Directors:

4.1.4. An independent Director is a Director who:

- (a) is not, and has not been employed by the NSWMA or any of its related entities at any time during the past five years;
- (b) is not, and has not been affiliated with an entity that acts as an advisor or consultant to the NSWMA or its related parties, nor is not and has not acted in such capacity at any time during the past five years;
- (c) is not, and has not been affiliated with any significant customer or supplier of the NSWMA or its Related Parties at any time during the past five years. A significant customer or supplier is a company that makes payments to, or receives payments from the NSWMA for property or services in an amount which, in any single fiscal year, exceeds the greater of Five Million Dollars \$5M or 5% of the company's consolidated gross revenues;
- (d) does not currently have, nor has had any personal service contracts with the NSWMA, its Related Parties or its senior management at any time during the past five years;
- (e) is not affiliated with any non-profit organization that receives significant funding from the NSWMA or its Related Parties;
- (f) does not receive and has not received any additional remuneration from the NSWMA apart from a Director's remuneration, nor participates in the NSWMA's performance-related payment plans, nor is a participant of the NSWMA's pension plan;
- (g) the Director's remuneration does not constitute a significant portion of the person's annual income;
- (h) is not employed as an executive officer of another company where any of the NSWMA's executives serve on that company's Board;

- (i) is not a member of the immediate family of any individual who is, or had been at any time during the past six years, employed by the NSWMA or its Related Parties, as an executive officer;
- (j) is not, nor has been at any time during the past six years, affiliated with or employed by a present or former auditor of the NSWMA or auditor of any Related Party; and
- (k) has not served on the Board for more than six successive years.

4.2. BOARD APPOINTMENT, QUORUM AND TERM OF OFFICE:

4.2.1. Appointment of Directors:

- (a) The Director shall be appointed by the Minister with portfolio responsibility for the NSWMA and their names shall be published in the Gazette.³
- (b) The Chairman and Deputy Chairman of the Board are selected by the Minister; and the office of Chairman, Deputy Chairman or other Directors of the Authority shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica.⁴
- (c) Sole power to appoint and revoke an appointment to the Board resides in the Minister.
- (d) Upon being selected for appointment, an appointment letter is given to the Directors and that letter shall clearly state the period of appointment, responsibilities of the Director and other matters relating to the operations of the Board and the NSWMA.
- (e) The validity of any proceedings of the Board shall not be affected by any vacancy among the Directors or by any defect in the appointment of a Director by the Minister⁵.

4.2.2. INDUCTION PROGRAMME, ONGOING TRAINING AND EDUCATION: Board Induction Programme:

- (a) Upon appointment, each Director shall participate in an induction programme that covers the NSWMA's strategy, general financial and legal affairs, financial reporting by the NSWMA, any specific aspects

³ NSWMA Constitution section 2.

⁴ NSWMA Constitution section 3(1) and 14.

⁵ NSWMA Constitution section 8(6).

unique to the NSWMA and its business activities, and the responsibilities of a Director.

- (b) The training of Directors is critical to ensure the maintenance of good governance. The NSWMA will provide on-going professional development for Directors in order for them to maintain the knowledge and expertise required to understand the operations of the NSWMA and to properly discharge their role and function as Directors.

Annual Review of Training:

- (c) The Board shall conduct an annual review to identify any area where the Directors require further training or education.

Costs to NSWMA:

- (d) The costs of the induction course and any training or education shall be paid for by the NSWMA.

Quorum:

- 4.2.3. The quorum of the NSWMA's Board is five (5) Directors.⁶

Tenure of Office and Reappointment:

- 4.2.4. Each Director shall hold office for such period, not exceeding 3 years, as may be specified in the instrument of appointment; and every appointed member shall be eligible for reappointment provided that the period of appointment to the Board shall not exceed 6 consecutive years.⁷

4.2.5. Resignation:

- (a) A Director of the Authority other than the Chairman may at any time resign his office through instrument in writing addressed to the Minister and transmitted through the Chairman and from the date of receipt by the Minister of such instrument, the Director shall cease to be a Director of the Authority.⁸
- (b) The Chairman may at any time resign his office through instrument in writing addressed to the Minister and from the date of receipt by the Minister of such instrument, the Chairman shall cease to be a Director of the Authority.⁹

⁶NSWMA Constitution section 8(4).

⁷NSWMA Constitution section 5.

⁸NSWMA Constitution section 7(1).

⁹NSWMA Constitution section 7(2).

(c) If any vacancy occurs in the appointed membership of the Board, such vacancy shall be filled by the appointment of another appointed member of the Board who shall subject to the Constitution, hold office for the remainder of the period for which the previous appointed member was appointed.¹⁰

(d) The validity of the proceedings of the Authority shall not be affected by any vacancy among the Directors thereof or any defect in the appointment of a Director.¹¹

5. CHAIRMAN OF THE BOARD:

5.1. Duties of Chairman:

(a) The Chairman is the leader of the Board and should be an Independent Director. He or she sets the tone at the top and must articulate his or her vision and lead by example. The Chairman of the Board is primarily responsible for the activities of the Board and its committees; acts as the spokesperson for the Board and is the principal contact for the Executive Director who shall meet regularly with the Chairman.

(b) The Chairman presides over the meetings and in the absence or inability to act of the Chairman, the Deputy Chairman shall perform the functions of the Chairman. If both are absent, one of the other Directors designated and approved by a resolution of the Directors present at the meeting, shall preside.¹²

(c) In the event of a prolonged absence or inability of both the Chairman and the Deputy Chairman, the Minister may appoint any other member of the Board to perform those functions.

(d) The Chairman must maintain the orderly conduct of meetings affording participants a reasonable opportunity to speak and ensuring that minutes of meetings accurately record decisions taken.

(e) The Chairman must exercise impartial judgement, acting objectively and ensuring all relevant matters are placed on the agenda and prioritized properly.

¹⁰ NSWMA Constitution section 5(3).

¹¹ NSWMA Constitution Section 8(6).

¹² NSWMA Constitution section 8(3).

- (f) The Chairman provides oversight and direction of the Executive Director and the Corporate Secretary who report to the Board through the Chairman.

Responsibilities of the Chairman:

5.2. The Chairman ensures that:

- (a) Directors, when appointed, participate in an orientation programme and, as needed, additional education or training programmes;
- (b) the Directors receive all information necessary for them to perform their duties;
- (c) the Board has sufficient time for consultation and decision-making;
- (d) the committees function properly and according to their respective Terms of Reference;
- (e) the performance of the Directors is evaluated at least once every year;
- (f) the Board has proper contact with the Executive Director, provides oversight and direction and monitors performance;
- (g) the Board satisfies its duties to all key stakeholders and promotes sustainability;
- (h) the agendas of Board meetings are in order and that minutes are kept of such meetings; and
- (i) internal disputes and conflicts of interest concerning individual Directors are addressed and resolved.

6. DUTIES OF DIRECTORS:

Expectations of a Director:

6.1. As a member of the Board, each Director shall:

- (a) through the exercise of due diligence, fulfil the legal requirements and obligations of a Director in discharge of his/her fiduciary duties, namely: to act honestly and in good faith in the best interests of NSWMA and to exercise the due diligence and skill that a reasonably prudent person would exercise in comparable circumstances;¹³

¹³Section 17 of the Public Bodies Management & Accountability Act.

- (b) recognize the NSWMA's accountability to stakeholders in the governance of the NSWMA and ensure that the best interests of the NSWMA are considered paramount;
- (c) devote sufficient time to Board affairs;
- (d) assist the NSWMA in the achievement of corporate strategic objectives;
- (e) ensure that he or she and the Board as a whole acts in the best interests of the NSWMA rather than in the interests of an individual Director or any other interests;
- (f) monitor his or her continued ability to meet these expectations; and
- (g) shall, if requested, join the Committees of the Board.

Specific Conduct as a Director:

6.1. To enable the Board to discharge its collective responsibilities for stewardship, including oversight and strategic leadership, each Director shall:

- (a) conduct himself or herself honestly, fairly, ethically and with integrity;
- (b) contribute views based on his or her unique skills and experience;
- (c) exercise authority as a Director only at meetings of the Board or its Committees or as specifically delegated by the Board;
- (d) address any requests of Senior Management to the Executive Director or such other persons as set out in the Board Operating Procedures;
- (e) monitor potential conflicts of interest he or she may have regarding any matters before the Board; and
- (f) declare any potential conflicts promptly to the Board and abstain from discussion and voting on any related matter.

Duty to act properly:

6.2. A Director who becomes aware of circumstances which are or are likely to be perceived to be, likely to detract from his or her ability to act in accordance with his or her fiduciary duty, shall forthwith report such circumstances. The need to take such action may arise in the following circumstances:

- (a) a change in affiliation or employment;
- (b) being appointed to any position that creates or appears to create inherently conflicting responsibilities; or

- (c) being unable to attend meetings consistent with the established standard or participate in Board and Committee meetings.

Potential Conflicts of Interest:

- 6.3. Potential conflicts of interest include a personal or business interest in a matter requiring Board decision, arising either directly (e.g. through an ownership or employment interest) or indirectly (e.g. through potential benefit from participation in a sector).

Notice of Outside Positions:

- 6.4. Directors must inform the Chairman of the Board and the Corporate Secretary of their other positions which may be of importance to the NSWMA or affect the performance of their duties before accepting such positions. If the Chairman determines that there is a risk of a conflict of interest, the matter shall be discussed by the Board in accordance with the appropriate section of this Charter. The Corporate Secretary shall keep a list of the outside positions held by each Director.

7. CONFLICTS OF INTEREST OF DIRECTORS:

Duty to Disclose:

- 7.1. A Director shall immediately report to the Board through the Chairman, any conflict of interest or potential conflict of interest and shall provide all relevant information, including information concerning spouse, registered partner or other life companion, foster child and relatives by blood or marriage up to the second degree and the details of the conflict must be recorded by the Corporate Secretary. The Director concerned shall not take part in the assessment by the Board of whether a conflict of interest exists.¹⁴
- 7.2. Where conflicts of interest do occur, Directors must recuse themselves from the discussions in respect of those interests and shall not exercise their right to vote in respect of such matters.

Related Party Transaction:

- 7.3. A potential conflict of interest exists if the NSWMA intends to enter into a transaction with a Related Party. A '**Related Party**' includes the following:
 - (a) the Regional Entities;¹⁵

¹⁴ NSWMA Constitution section 13.

¹⁵ Metropolitan Parks & Markets Waste Management Company Limited, North Eastern Parks & Markets Waste Management Limited, Southern Parks & Markets Waste Management Company Limited and Western Parks & Markets Waste Management Company Limited.

- (b) Directors of the NSWMA and Directors of the Regional Entities;
- (c) the Executive Director and senior managers of the NSWMA and the Regional Entities including anyone who directly reports to the Board or the Executive Director;
- (d) the father, mother, sons, daughters, husband, or wife of any of the natural persons listed herein;
- (e) any business, and the Directors, Executive Director and senior managers of any business, in which the natural persons listed above, own jointly or severally at least 20% of the voting rights;
- (f) any person whose judgment or decisions could be influenced as a consequence of an arrangement or relationship between or involving themselves and any of the persons in paragraphs a-e above.

Abstention by Conflicted Party:

- 7.4. A Director shall not take part in any discussion or decision-making regarding any subject or transaction in which there is a conflict of interest with the NSWMA.

Requirements to Approve Conflicts of Interest:

- 7.5. All transactions in which there are conflicts of interest with Directors shall be agreed on terms that are customary for 'arm's-length' transactions in the NSWMA's business. Decisions to enter into transactions in which there are conflicts of interest with Directors require the approval of the Board.

8. CONFIDENTIALITY:

Principle of Confidentiality:

- 8.1. Confidential Information means all data and information relating to the business, management and affairs of NSWMA and the Regional Entities, which is or comes to be in the possession of the Director by virtue of his office as Director and which is not in the public domain.
- 8.2. As a general rule each Director shall keep all Confidential Information confidential and no Director shall use Confidential Information for personal gain or use. This obligation survives the termination or resignation of a Director as a Director of NSWMA.
- 8.3. Unless required to do so by law, no Director shall, during membership on the Board or afterwards, disclose any information of a confidential nature regarding business of the NSWMA, that came to the person's knowledge in the capacity as Director and which the person knows or should know to be of a confidential nature.

8.4. A Director may disclose such information to fellow Directors as well as to staff members of the NSWMA and the Regional Entities who, in view of their activities for the NSWMA and the Regional Entities, should be informed of the information.

8.5. A Director shall not use such Confidential Information for personal benefit.

Notice of Disclosure:

8.6. If a Director intends to disclose to third parties information which the person has become aware of in duties and which may be confidential, the Director must inform the Chairman of the intent and the identity of the person who is to receive the information with sufficient notice for the Chairman to assess the situation and advise the Director. This section applies to both official and personal statements and to any person attending Board meetings which in terms of their content and form are clearly only intended for the Board.

9. REMUNERATION OF DIRECTORS:

Directors are remunerated in accordance with Ministry of Finance Circulars in effect.¹⁶

10. CORPORATE SECRETARY:

Appointment:

10.1. The Board shall appoint a Corporate Secretary who shall report directly to the Board.

Role:

10.2. The Corporate Secretary is the secretary of the Board and its Committees and assists the Board in the execution of critical administrative and governance functions which demand a high degree of compliance and ethical conduct.

General Access:

10.3. All Directors may go to the Corporate Secretary for advice or to use the person's services.

10.4. Responsibilities:

(a) The Corporate Secretary sees to it that the Board follows correct procedures and that the Board complies with obligations under law and the Authority's constitution.

¹⁶ NSWMA Constitution section 10; section 20 of the Public Bodies Management & Accountability Act.

(b) The Corporate Secretary shall assist the Chairman of the Board in developing the annual board work plan, co-ordinating the evaluation of the Board and its members; and organizing the Board's activities (including providing information, preparing an agenda, reporting of meetings, evaluations and training programmes).

(c) The Corporate Secretary should prepare and circulate Board papers and co-ordinate the recording secretariat in the preparation and circulation of Board and Committee minutes.

11. COMMITTEES, MEMBERSHIP & REPORTING:

11.1. Establishment of Committees:

(a) To support the Board in effectively performing its duties the Board may from time to time establish Board Committees with the approval of the Minister and the Board shall determine the members of any committee.¹⁷

(b) The Board shall establish committees to govern areas of the NSWMA's Operations including but not limited to: Audit, Legal and Corporate Governance, Human Resources, Finance & Procurement, and Technical & Operations.

(c) The Chairpersons of Board Committees shall be chosen by the Chairman of the Board and shall be independent non-executive Directors.

(d) A committee appointed may include persons who are not Directors (hereinafter referred to as Co-opted Committee Members) but at least one half of the members of such committee shall be Directors.¹⁸

(e) The validity of the proceedings of a committee shall not be affected by any vacancy among the members thereof or any defect in appointment of a member thereof¹⁹.

11.2. Co-opted members & Invitees:

(a) Committee Chairmen, with the approval of the Board, and in accordance with this Charter, the Constitution, the respective Committee Charters/Terms of Reference and applicable laws may co-opt members to Board Committees.²⁰

(b) Co-opted Members have the same rights and privileges as other Board Director members.²¹

¹⁷ NSWMA Constitution section 11 (1).

¹⁸ The Corporate Governance Framework for Public Bodies, Principle 2(9)(ii) .

¹⁹ NSWMA Constitution section 11(5).

²⁰ NSWMA Constitution section 11 (3) and (4); Section 8(6) of the Public Bodies Management & Accountability Act, The Corporate Governance Framework for Public Bodies, Principle 13

- (c) The admission to a meeting of persons other than co-opted members, Directors, the Executive Director, the Secretary and (if invited) other executives, shall be decided by majority vote of the committee members present at the meeting.
- (d) Invitees to meetings shall not constitute a part of the quorum or be entitled to vote and shall not have access to Confidential Information of the Board or partake in closed or confidential discussions of the Board.²²

Ex-Officio Members:

11.3. An Ex-Officio Member of the Board shall be entitled to all the privileges of a statutory member of the Board of the NSWMA.

11.4. **Board Responsibility for Committee Action:**

- (a) The Board remains collectively responsible for the decisions and actions taken by any committee.
- (b) A committee may only perform the tasks delegated to it by the Board and may not exceed the authority or powers of the Board as a whole.
- (c) Decisions that by law must be taken by the Board may not be delegated to a committee.

11.5. **Committee Reporting:**

- (a) Each committee must promptly inform the Board of the actions it has taken and major developments of which it becomes aware.
- (b) Each Director shall have unrestricted access to all committee meetings and records.
- (c) The Board shall, as set forth in the charter of the committee concerned, receive a report from the committee describing the committee's actions and findings.

11.6. **Committee Terms of Reference:**

- (a) The Board shall establish, and may by resolution, amend the Terms of Reference (TOR) for each committee.
- (b) The TOR shall indicate the role and responsibilities of the committee, its composition, structure, quorum requirements and how it should perform its duties.²³

²¹ The Corporate Governance Framework for Public Bodies, Principle 2(9); and Section 8(8) of the Public Bodies Management & Accountability Act with respect to Audit Committees.

²² The Corporate Governance Framework for Public Bodies, Principle 6(1).

²³ NSWMA Constitution section 11 (2).

- (c) The TOR of a committee shall require that the committee has no less than two members (or, if the committee is composed of three or fewer members, one member) who are independent, as defined in this Board Charter.

Website Disclosure:

- 11.7. This Charter as well as the Terms of Reference and the composition of the committees shall be posted on the NSWMA's website.

12. DUTIES AND PERFORMANCE OF THE BOARD:

General Duties of Board:

- 12.1. The general duties of the Board include duties imposed by law, the NSWMA's Constitution, this Charter and the Terms of Reference of a committee.

Duties of the Board in relation to members:

- 12.2. The duties of the Board (in consultation with the appropriate Board committees) in relation to the Directors:
 - (a) the establishment of committees and defining their role, the evaluation of the Board, its individual members and its committees (including an evaluation of the Board Profile and the induction, education and training programme);
 - (b) addressing any conflict of interest issues between the NSWMA and the Directors.

Responsibilities of Board:

- 12.3. The Board oversees the general business of the NSWMA. The entire Board is responsible for such supervision and oversight.

The Board acts in the interest of the NSWMA:

- 12.4. The Board shall act in the best interests of the NSWMA and its business, taking into consideration the interests of the NSWMA's stakeholders. Directors shall perform their duties independent of any particular interest in the NSWMA and should not support one interest without regard to the other interests involved.

Quality of Performance:

- 12.5. The Board is responsible for the quality of its own performance.

Action in Concert:

- 12.6. As much as they can, within their individual responsibilities as Directors, members shall act and speak in concert with respect to important affairs and on matters of principle.

Provision of Information:

12.7. To assist the Board to fulfil its duties, the Chairman and the Executive Director shall see to it that management, in a timely manner, provides the Board and its committees with the information they need to properly function.

12.8. Responsibility for Securing Information:

(a) The Board and its Directors each have responsibility for obtaining all information from management and the internal and external auditor needed to carry out their duties.

(b) If the Board thinks it is necessary it may obtain information from officers and external advisors of the NSWMA and The NSWMA shall aid the Board in obtaining such information.

(c) The Board may require certain officers and external advisors to attend, but never to vote at its meetings.

Access to Records:

12.9. Each Director has access to the books and records of the NSWMA, if useful to perform duties; unless the charter of a committee states otherwise, Directors shall consult with the Chairman of the Board and the Corporate Secretary before exercising their rights under this provision.

12.10. Use of Experts:

(a) The Board may hire experts to assist or advise them and the cost of such experts shall be agreed to by the Board and shall be paid by the NSWMA.

(b) A Board member may rely upon the advice of a relevant expert so long as the member has no reason to question the expert's report or conclusion.²⁴

Regulating Proceedings:

12.11. Subject to the provisions of the Constitution, the Board may regulate its own proceedings.

13. DUTIES REGARDING THE SUPERVISION OF MANAGEMENT:

Nature of Supervision:

13.1. **In supervising the management, the Board shall consider:**

(a) the achievement of the NSWMA's objectives;

(b) the strategy and risks in the NSWMA's activities;

²⁴Section 19 of the Public Bodies Management & Accountability Act.

- (c) the structure and operation of the internal risk management and audit and control systems;
- (d) the financial reporting process;
- (e) compliance with law and regulations; and
- (f) any other matters the law requires the Board to consider.

Financial Reporting:

- 13.2. The Board supervises the NSWMA's financial reporting in accordance with Section 15 below.

Annual Risk Review:

- 13.3. At least once a year, the Board shall discuss the NSWMA's strategy and business risks, the management's assessment of the internal risk management and control systems, and any significant changes to such systems.

Resolutions Subject to Approval:

- 13.4. In accordance with the Board Delegation of Authorities & Reservations Policy, the following resolutions are subject to the approval of the Board:
- (a) determining and amending the operational and financial strategic objectives of the NSWMA;
 - (b) determining and amending key performance indicators in support of the strategic objectives (including, for example, any financial ratios);
 - (c) any other matters that Jamaican laws or regulations require the Board to approve;
 - (d) such other matters as are reserved by the Board for its attention and which are set out in the Board Reservations policy document.

14. ANNUAL EVALUATION:

14.1. Board & Director Evaluation:

The Board will conduct an annual performance evaluation of each Director, the Board on a whole and the Chairman. The evaluation process will be conducted in line with the goals and objectives set and may also include setting out the goals and objectives of the Board for the upcoming year.

14.2. Executive Director & Corporate Secretary Evaluation:

The performance of the Executive Director and the Corporate Secretary are to be evaluated annually by a panel consisting of the Chairman of the Board and the Chairperson of each Board Committee.

15. SUPERVISION OF FINANCIAL REPORTING:

15.1. General Supervision Responsibilities:

- (a) The Board, in consultation with the Audit Committee, supervises compliance with written procedures for the preparation and publication of the annual report and accounts, the quarterly (if any) and semi-annual financial reports and any other financial information.
- (b) The Board, through the Audit Committee, also supervises the internal control and audit mechanisms for external financial reporting.

15.2. Discussion of Financial Reports:

- (a) The Audit Committee shall regularly, and in any event as soon as possible, provide the Board with reports on the annual report and accounts, and the quarterly (if any) and semi-annual financial reports, which will then be discussed at a meeting of the Board.
- (b) The annual report and accounts for the year just ended shall be discussed in a meeting with the Board within four months of the year end.
- (c) The semi-annual and quarterly (if any) financial reports of the NSWMA for the respective period just ended shall be discussed in a meeting with the Board within two months of the end of the period.

16. DUTIES REGARDING APPOINTMENT AND ASSESSMENT OF EXTERNAL AUDITOR:

Appointment of External Auditor:

- 16.1. The external auditor of the NSWMA shall be appointed once approved by unanimous resolution of the Board.²⁵

Representation by External Auditor:

- 16.2. When appointed, the external auditor shall indicate its awareness of the NSWMA's policies and other matters provided for in this Charter and the charter of the Audit Committee and shall agree to abide by and promote such policies.

²⁵Section 13 of the Public Bodies Management & Accountability Act.

Compensation of Auditor:

- 16.3. Compensation of external auditor and instructions to the external auditor to provide non-audit services shall be closely reviewed and approved by the Board on the recommendation of the Audit Committee, thus ensuring the auditor's independence.

Attendance of External Auditor:

- 16.4. The Board shall ensure that the external auditor attends the meeting of the Board at which the report of the auditor with respect to the audit of the annual accounts is discussed and at which the Board decides whether or not to approve the annual accounts. The external auditor shall receive any financial information underlying the quarterly (if any) and/or semi-annual financial reports and other interim financial reports, and shall be given the opportunity to respond to all information.²⁶

Contact with External Auditor:

- 16.5. The Board's principal contact with the external auditor is through the Chairman of the Audit Committee. If any irregularities in the financial reports are discovered, the first discussion regarding such irregularities in the financial reports should be between the Audit Committee and the external auditor.²⁷

Recommendations by External Auditor:

- 16.6. The Board shall carefully consider and, if accepted, put into effect any recommendation by the external auditor. This will include recommendations made by the external auditor on the NSWMA's internal control, as expressed in the 'management letter.'

Reports to the Board:

- 16.7. The Audit Committee shall report their dealings with the external auditor to the Board on an annual basis, including their assessment of the external auditor's independence (for example, the desirability of the external auditor providing both auditing and non-audit services to the NSWMA).

Assessment of External Auditor:

- 16.8. At least once every three years, the Audit Committee shall conduct a thorough assessment of the functioning of the external auditor in the various entities and capacities in which the external auditor acts. The main conclusions of this assessment shall be communicated to the Board so it may assess the nomination for the appointment of the external auditor.

Conflicts of Interest – External Auditor:

²⁶Section 14 of the Public Bodies Management & Accountability Act.

²⁷Sections 8 and 9 of the Public Bodies Management & Accountability Act.

16.9. Conflicts of Interest and potential conflicts of interest between the external auditor and the NSWMA shall be resolved in accordance with the policy laid down or as determined by the Board on the recommendation of the Audit Committee. Directors shall inform the Chairman of the Audit Committee of any matters they know of that may compromise the independence of the external auditor or that may result in a conflict of interest between the external auditor and the NSWMA.

17. STRUCTURE OF BOARD MEETINGS:

Notice and Agenda:

- 17.1. A notice of each meeting together with an agenda for the meeting shall be circulated to all Directors at least one week prior to the meeting.
- 17.2. For each item on the agenda, an explanation in writing shall be provided where necessary and related documentation will be attached.
- 17.3. The Chairman shall consult with the Executive Director prior to convening the meeting on the content of the agenda and the Executive Director have the right to request that an item be placed on the agenda for a Board meeting provided that the item is notified to the Chairman at least ten days prior to the meeting.

18. VENUE,FREQUENCY OF MEETINGS& ATTENDANCE OF AND ADMITTANCE TO MEETINGS:

Venue of meetings:

- 18.1. Board meetings are generally held at the offices of the NSWMA but may also take place at such places and times and on such days as the Board may determine.²⁸
- 18.2. In addition, meetings of the Board may be held by conference call, video conference or by any other means of communication, provided all participants can communicate with each other simultaneously.

Frequency of Meetings:

- 18.3. Board Meetings are to be held monthly or with such frequency as the Board may decide.
- 18.4. The Board shall meet at least six (6) times for the year.
- 18.5. An annual schedule of the board meetings for the following year shall be agreed by the Board and circulated to Directors prior to the start of each year.

²⁸ NSWMA Constitution section 8(1).

- 18.6. Every year the Board reserves one (1) full day per year to discuss and develop strategic policies and to assess or review the Corporate Plan if necessary.

Special Meeting:

- 18.7. It is within the power of the Chairman to convene a meeting outside of scheduled meeting times as may be necessary and expedient for the transaction of business. The Chairman may therefore at any time call a Special meeting of the Board; and shall call a Special meeting to be held within 7 days of a written request for that purpose addressed to him by any three Directors.²⁹

19. MEETING ATTENDANCE & PREPARATION:

Attendance of Directors:

- 19.1. Directors are expected to attend and actively participate in meetings of Committees on which they serve, and to meet as frequently as necessary to properly discharge their duties.
- 19.2. Attendance at the meetings by the Directors must be recorded.

Attendance by Executive Director & Management:

- 19.3. The Executive Director, even where the person is not a member of the Board, shall attend Board meetings unless the Board instructs the person not to attend. If requested by the Board, other executives and managers shall also attend meetings of the Board in whole or in part.
- 19.4. To ensure proper review of materials being used at the Board Meeting, Directors are to receive the materials at such number of days in advance of meetings as is set out in the Board Operating Procedures.

Undue Absence:

- 19.5. A Director who is frequently absent from Board meetings shall be required to explain such absences to the Chairman.

Leave of absence:

- 19.6. The Minister may on the application of any appointed member of the Authority grant such member a leave of absence for any period not exceeding 6 months and may appoint some other person to act as a member during the period of leave of absence so granted.

20. COMMUNICATION:

²⁹NSWMA Constitution section 8(2).

- 20.1. The Board is committed to providing timely, accurate and balanced information on the operations of the NSWMA.
- 20.2. The Directors shall be at liberty to communicate with managers of the NSWMA in the manner outlined in the Board Operating Procedures and responses to such correspondence shall be in the manner prescribed therein. Acceptable means of communication however include email or other electronic means, facsimile transmission, telephone, personal service of notices or letters, service by way of regular post/ordinary mail, courier service, registered mail or service to residential addresses, places of business or employment.

21. MINUTES, RESOLUTIONS & PREFERENCE FOR UNANIMITY:

Minutes& Records:

- 21.1. The Corporate Secretary is charged with the responsibility of recording minutes of meetings and the decisions which are made at every Board meeting.
- 21.2. The minutes are to be signed by the Chairman of the meeting and the Corporate Secretary and added to the NSWMA's records.
- 21.3. Each Director shall receive a copy of the minutes.

Resolutions& Adoption at Meeting:

- 21.4. At a meeting, the Board may only pass resolutions if a quorum of the Director is present or represented.
- 21.5. Urgent resolutions may be drawn up and adopted immediately in the relevant meeting.
- 21.6. The Directors shall try to unanimously adopt resolutions. However, Directors are encouraged to voice dissenting opinions and record these in the minutes when unanimity cannot be reached.

Round Robin Resolutions for the Board and its committees:

- 21.7. Where it is impractical to adopt a resolution at a duly constituted meeting of the Board of Directors, or meeting of any Board committee, votes on matters to be deliberated may be cast via round robin in which event all Directors and committee members must be contacted using acceptable means of communication as outlined in section 20.
- 21.8. A resolution in writing, signed by all the Directors for the time being entitled to receive notice of a meeting of the Director, shall be as valid and effectual as if it had been passed at a meeting of the Director duly convened and held.

- 21.9. All resolutions approved by round robin must be unanimous and should be noted at the next regular Board meeting.

Objection to Resolutions:

- 21.10. A Director who objects to any resolution adopted by the Board shall have his or her objection recorded in the minutes.

- 21.11. Directors who have taken part in a meeting may not object to resolutions adopted at the meeting on the grounds of an invalid notice.

- 21.12. Directors absent from meetings will be taken to have accepted any decisions made if no objections are made within 7 days of becoming aware of the decision.³⁰

Individual Vote:

- 21.13. Each Director has the right to cast one vote.

Majority Vote:

- 21.14. Where unanimity cannot be reached and the law does not prescribe a larger majority, all resolutions of the Board are adopted by a majority of the votes cast. In the event of a tie, the Chairman of the Board has the deciding vote.

Emergency Procedures:

- 21.15. The Board may deviate from the provisions if this is deemed necessary by the Chairman of the Board, considering the urgent nature and other circumstances of the case, provided that all Directors are allowed the opportunity to participate in the decision-making process. The Chairman of the Board and the Corporate Secretary shall then prepare a report on a resolution so adopted, which shall be added to the documents for the next meeting of the Board.

22. MISCELLANEOUS:

Restriction on Loans and Guarantees:

- 22.1. The NSWMA does not grant personal loans, guarantees or the like to Directors.

Agreement to be bound by Charter:

- 22.2. Anyone who is appointed as a Director must, upon assuming office, declare in writing to the NSWMA that the person accepts and agrees to comply with the provisions of this Charter. A corresponding reference to this extent is included in a Director's appointment letter.

³⁰Section 18 of the Public Bodies Management & Accountability Act.

Indemnity:

- 22.3. No action, suit, prosecution or other proceedings shall be brought or instituted personally against any Director in respect of any act done bona fide in pursuance or intended execution of this Act; where a Director is exempt from liability by reason only of the provision of this section, the Authority shall be liable to the extent that it would be if the said Director were an employee or an agent of the Authority.³¹

Occasional Non-Compliance:

- 22.4. If permitted by law the Board may occasionally decide, by unanimous decision, at its sole discretion, not to comply with the provisions of this Charter.

Seal

- 22.5. The Seal of the Authority shall be authenticated by the Chairman of the Board or any Director authorized to act in that behalf or any officer of the Authority so authorized and shall be judicially and officially noticed.³²

Interpretation:

- 22.6. In case of uncertainty or difference of opinion on how a provision of this Charter should be interpreted, the opinion of the Chairman of the Board shall be decisive.

Partial Invalidity:

- 22.7. If one or more provisions of this Charter are (or become) invalid, this shall not affect the validity of the remaining provisions. The Board may replace the invalid provision by provisions which are valid and the effect of which, given the contents and purpose of this Charter is to the greatest extent possible, similar to that of the invalid provisions.

Entire Charter & Amendment:

- 22.8. This document represents the entire Charter; and may, subject to the Act and the Constitution, be amended by the Board at its sole discretion without prior notification.

³¹ NSWMA Constitution section 12 (1) (2); section 19 of the Public Bodies Management & Accountability Act.

³² NSWMA Constitution section 9 (1).