





national film and video foundation
SOUTH AFRICA
an agency of the Department of Sport, Arts and Culture

**NATIONAL FILM AND VIDEO FOUNDATION
COUNCIL CHARTER**

DECEMBER 2023

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APPROVAL	
The signatories hereof, confirm their acceptance of the content and authorise the adoption thereof	
	06 December 2023
Signature: Chairperson of the Council	Date

1. PREAMBLE AND PURPOSE OF THIS CHARTER

- 1.1 The National Film and Video Foundation (NFVF) is a statutory body created by the National Film and Video Foundation Act No. 73 of 1997 to develop and promote the equitable growth of the South African film and video industry.
- 1.2 The NFVF is guided by a Council, consisting of highly respected professionals with diverse expertise in the film, television industry, television industry, policy, corporate governance and financial management.
- 1.3 The Council of the NFVF is ultimately accountable and responsible for the performance and affairs of the NFVF and regard good corporate governance as pivotal to the success of its business, its stakeholder relations and the ability of the NFVF to deliver on its mandate.
- 1.4 This Charter aims to regulate the parameters within which the Council will operate and to ensure the application of the principles of good corporate governance in all dealings by, in respect of and on behalf of the NFVF.
- 1.5 Whilst this Charter includes references to minimum acceptable standards of governance, in pursuit of its underlying ideals, it is critical that the substance prevails over form. The Council, therefore, reaffirms its intention to exceed these corporate governance standards wherever reasonable, having due consideration to recognised standards of governance, best practice locally and internationally, the recommendations of the King Report on Corporate Governance for South Africa (“King IV”), and the objectives set out in section 3 of the NFVF Act.

2. LEGISLATIVE AND GOVERNANCE FRAMEWORK

In addition to founding legislation described in 1.1 above, the NFVF is regulated in terms of the NFVF Act and the provisions of the Shareholder Compact, the Public Finance Management Act (PFMA) and the National Treasury Regulations, and all other applicable laws of the Republic of South Africa. The King Code (IV) also applies as best practice for good corporate governance.

3. COUNCIL’S MANDATE AND GOALS

- 3.1 The Council is responsible for ensuring that the mandate of the NFVF to develop and promote the film industry, as set out in the NFVF Act, is achieved.
- 3.2 The Council has adopted the following goals to guide it and the NFVF in the delivery of the NFVF’s mandate. In the key areas of the Development and Promotion of the film industry, Stakeholder Relations, Financial Management, Human Resources, and Corporate Governance, the Council has committed itself to:
 - 3.2.1 Ensuring that the NFVF increases the number of South African Films and Previously

Disadvantaged Individuals (PDI) producing them;

- 3.2.2 Ensuring that the NFVF increases audience access to South African Films;
- 3.2.3 Ensuring that the NFVF increases the number of people trained in the industry, particularly in areas of scarce skills; as outlined in the National Scarce Skills List by the Department of Higher Education and Training to the extent applicable;
- 3.2.4 Ensuring that the NFVF promotes the South African Film Industry locally and internationally;
- 3.2.5 Ensuring social cohesion and the expression of the nation's stories through film;
- 3.2.6 Maintain a procurement policy that complies with the Preferential Procurement Policy Framework Act, and the Broad-Based Black Economic Empowerment Act, and promotes ownership including creative content , and the participation of youth, women and persons with disabilities in the film industry;
- 3.2.7 Make the NFVF a place of preferred employment by attracting, retaining and nurturing talent in the NFVF, while ensuring appropriate compliance with the Employment Equity imperatives and aspirations of the Republic;
- 3.2.8 Put in place an information system that will enable the NFVF to deliver on its mandate;
- 3.2.9 Ensure full compliance by the NFVF with the NFVF Act, this Charter, and other legislation applicable to the NFVF and put in place systems, policies and procedures to ensure improved business processes, achieve efficiencies and ensure good governance within the NFVF; and
- 3.2.10 Monitor, evaluate and reward performance in implementing these Goals and the NFVF's policies.

4. COUNCIL COMPOSITION AND CHAIRPERSON

- 4.1 The Council is appointed by the Minister of Sport, Arts and Culture in terms of section 6 of the NFVF Act and is chaired by a non-executive member appointed by the Minister. The Deputy Chairperson shall be nominated by the Council and the appointment ratified by the Minister.
- 4.2 The Council should comprise the appropriate balance of knowledge, skills, experience, diversity and independence for it to discharge its governance role and responsibilities objectively and effectively.

5. DUTIES AND RESPONSIBILITIES

- 5.1 The Council has the primary duty and responsibility to exercise leadership, integrity and judgment in directing the affairs of the NFVF so as to achieve the goals and objectives of the NFVF as set out in the NFVF Act and the NFVF's Shareholder Compact with the Department of Sport, Arts and Culture.

- 5.2 The Council also has the duty and responsibility to ensure that its arrangements for delegation within its own structures promote independent judgement and assist with good governance and the effective discharge of its duties.
- 5.3 The Council must:
- 5.3.1 Set the strategic direction of the NFVF, having regard to the objectives prescribed in the legislative and governance framework within which the NFVF exists;
 - 5.3.2 At least once in each financial year, oversee the development of and approve a strategic plan for the NFVF together with a budget to facilitate delivery of the approved strategy;
 - 5.3.3 Monitor management's implementation of the business and operational plans and agreed financial objectives on an ongoing basis during each financial year;
 - 5.3.4 Delegate the appropriate authority for the running of the day-to-day business of the NFVF to management in a written Delegation of Authority Framework which shall be reviewed as and when necessary and continually monitor the exercise of such delegated authority by management. In this regard, the Council should refrain from unnecessary and undue interference with the running of the day-to-day business of the organisation;
 - 5.3.5 Ensure that a comprehensive system of policies and procedures and appropriate governance structures are put in place to ensure the smooth, efficient and effective management of the NFVF;
 - 5.3.6 Review the policies of the NFVF every three years or when necessary to ensure that they remain relevant and appropriate;
 - 5.3.7 Ensure the NFVF's compliance with all applicable laws and regulations, audit and accounting principles, and policies and procedures which have been approved by the Council;
 - 5.3.8 Regularly review and evaluate the risks to the NFVF's business and ensure the existence of comprehensive, appropriate internal controls to mitigate against such risks;
 - 5.3.9 Ensure that the NFVF has a sound succession plan in place in respect of senior management and other key positions; and
 - 5.3.10 Ensure that the NFVF acts responsibly towards all relevant stakeholders having a legitimate interest in its affairs

6. SPECIFIC RESPONSIBILITIES IN TERMS OF THE PUBLIC FINANCE MANAGEMENT ACT (PFMA)

- 6.1 In addition to the responsibilities of the Council in terms of the NFVF Act, the Council, as the "accounting authority" in terms of the PFMA has the following further responsibilities:
- 6.1.1 Council members must act with fidelity, honesty, integrity and in the best interests of the NFVF in all dealings on its behalf and are prohibited from using their privileged position as Council members or any confidential information gleaned in that capacity for their personal gain or that of any other person;

- 6.1.2 Council members must fully disclose to the Council any actual or potential, direct or indirect, personal or private business interest of himself/herself, a spouse, partner, and friend or close family member in any matter before the Council.
- 6.2 The Council must ensure :
- 6.2.1 The care and protection of the NFVF's assets and records, and seek to prevent any prejudice to the financial interests of the NFVF;
 - 6.2.2 The existence of effective, efficient and transparent systems of financial and risk management and internal control;
 - 6.2.3 The existence of a robust internal audit function;
 - 6.2.4 The existence of a procurement system that is fair, equitable, transparent, competitive and cost-effective;
 - 6.2.5 That all revenue due to the NFVF is collected and that working capital is efficiently and effectively managed;
 - 6.2.6 The Council must review the material risks identified by the Audit and Risk Committee and ensure that robust systems and appropriate strategies to guard against such risks are put in place. In particular, the Council should ensure that the NFVF's internal control systems are suitable to ensure the protection of the NFVF's assets and reputation;
 - 6.2.7 The Council must ensure the submission of regular reports to the Minister (quarterly as envisaged by the PFMA). The Council is required to disclose to the Minister all material facts which may influence any Ministerial decisions whether relating directly to the NFVF or not. In the event that the Council is unable to comply with its obligations in terms of the PFMA, it must promptly report this to the Minister and National Treasury giving reasons for its inability to comply;
 - 6.2.8 The Council must submit the NFVF's financial statements, prepared in accordance with applicable accounting standards to the auditors for auditing purposes within two months of the NFVF's financial year-end;
 - 6.2.9 Annually, within five (5) months of the financial year-end, the Chief Executive Officer (CEO) on behalf of the Council, must submit a report to the Minister and National Treasury on the activities of the NFVF for the year, together with the audited annual financial statements (AFS) and the Auditor-General's report thereon. The AFS must include a report by the Chairperson of Council and full disclosure of all Council members and key management remuneration; and
 - 6.2.10 The Council must annually conclude a Shareholder's Compact with the Minister in respect of agreed performance indicators for the NFVF in the ensuing year.

7. COUNCIL'S RELATIONSHIP WITH THE SHAREHOLDER

- 7.1 The Council's relationship with the Shareholder and the targets to be achieved by the NFVF in any

financial year are determined in the Shareholder Compact; and

- 7.2 The Chairperson of the Council shall meet at least annually with the Shareholder to discuss issues of relevance to the relationship between the NFVF and the Shareholder and shall report back to the Council on such discussions. The meeting shall include any other members of the Council who are deemed necessary by the Chairperson.

8. LEADERSHIP OF THE NFVF

- 8.1 There should be a clear division of responsibilities between the executive management responsibility for the operations and day to day running of the NFVF's business, and the Council; and
- 8.2 The Council is a non-executive Council and control of the day-to-day operations of the business shall be vested in the Chief Executive Officer appointed by the Council.

9. THE ROLE OF THE CHAIRPERSON

- 9.1 The Chairperson shall preside over meetings of the Council and shall be responsible for ensuring the integrity and effectiveness of the Council governance processes;
- 9.2 The Chairperson provides overall leadership to the Council and must ensure that all Council members play a role, collectively and individually, in discharging their duties and/or responsibilities as Council members of the NFVF;
- 9.3 The Chairperson shall be responsible for representing the Council to the Shareholder and the public and shall also act as the main link between the Council and executive management. The Chairperson shall maintain dialogue with the CEO on significant matters and must consult with the other Council members promptly on any issue relating to the NFVF which gives him/her cause for concern;
- 9.4 The Chairperson will act as a facilitator at meetings of the Council to ensure that no Council member dominates the discussion, that relevant discussion takes place, that the opinions of all Council members relevant to the subject under discussion are solicited and freely expressed, and that Council discussions lead to appropriate decisions. The Chairperson will seek a consensus amongst the Council but may, where considered necessary, call for a vote, in which event the decision of the majority of Council members will prevail and dissenting views will be recorded. The Chairperson shall have a casting vote;
- 9.5 In the event of any matter arising which the Chairperson, or the majority of the Council, feel that the Chairperson may not be able to deal with objectively, the Chairperson shall temporarily relinquish the chair to the Deputy Chairperson or any other Council member for the duration of the discussion on such issue. In such an event, the Chairperson shall be entitled to enter into discussion and to

vote as any other Council member present at the meeting;

9.6 The Council shall annually review the performance of the CEO. This review will be done by the Chairperson and Deputy Chairperson of Council and the Chairperson of the HR and Ethics Committee; and

9.7 In the absence of the Chairperson for any reason, the role of the Chairperson as set out above shall be executed by the Deputy Chairperson of the Council.

9.8 The Chairperson, together with the Company Secretary should periodically review whether the Council and the organisation's governance processes are fit for purpose and consider any improvements or initiatives that could strengthen the governance of the organisation. The relationship between the company secretary and the Chairperson of the Council is central to creating an efficient Council.

10. THE ROLE OF THE COMPANY SECRETARY

10.1 The Company Secretary:

10.1.1 Is responsible for the formulation of an annual calendar and an annual work plan for the Council against agreed objectives and goals;

10.1.2 Must ensure that the format and timing of Council meetings and the content and order of the Council agenda is appropriate, that Council members are properly briefed on issues arising at Council meetings and that all relevant and available information on an issue is placed before the Council in order that members may make informed decisions;

10.1.3 Must manage affairs of the NFVF Council and provide guidance and support to the NFVF Council and its structures;

10.1.4 Shall initiate and facilitate the performance evaluation of the Council; and

10.1.5 Will assume the administrative responsibility for the NFVF Council and its structures.

11. GOVERNANCE ETHICS AND CODE OF CONDUCT

11.1 Every member of the Council shall:

11.1.1 At all times professionally conduct himself/herself, having due regard to his/her fiduciary duties and responsibilities to the NFVF;

11.1.2 Uphold the core values of confidentiality, integrity and independence in all dealings on behalf of the NFVF;

11.1.3 Ensure that he/she has sufficient time available to devote to his/her duties as a Council member;

11.1.4 Be diligent in discharging his/her duties to the NFVF and seek to acquire a broad knowledge of the NFVF's business to be able to provide meaningful direction to it;

11.1.5 Keep abreast of changes and trends in the film industry, including changes and trends in

the economic, political, social, technology and legal climate generally, which may impact on the NFVF's business;

- 11.1.6 Use their best endeavours to attend all Council meetings, to read all necessary documentation and prepare themselves thoroughly in advance of Council meetings. Council members who are unable to attend a scheduled meeting shall advise the Company Secretary in writing, in advance of a meeting;
- 11.1.7 The Council shall allow every Council member to play a full and constructive role in its affairs. Council members shall accordingly participate fully, frankly and constructively in Council discussions and other activities and shall endeavour to bring the benefit of their particular knowledge, skills and abilities to Council discussions;
- 11.1.8 As Council members are individually and collectively accountable for compliance by the NFVF with its statutory and regulatory obligations, every Council member should endeavour to be conversant with the statutory and regulatory framework within which the NFVF operates;
- 11.1.9 The Council may recommend to the Minister that any Council member who fails to attend 3 consecutive meetings without the approval of the Chairperson relinquishes his/her Council membership;
- 11.1.10 The levels of remuneration payable to Council members shall be according to the National Treasury rates;
- 11.1.11 Council should assume responsibility for the governance of ethics by setting the direction for how ethics should be approached and addressed by the organisation;
- 11.1.12 Council should assume responsibility for the evaluation of its performance and that of its committees, its chair and its members by determining how it should be approached and conducted;
- 11.1.13 Council should assume responsibility for the governance of technology and information by setting the direction for how technology and information should be approached and addressed in the organisation; and

12. GENERAL PRINCIPLES OF DELEGATION OF AUTHORITY

- 12.1 The Council shall determine if and when to delegate particular roles and responsibilities to an individual member or members of the Council, or standing or ad hoc-committees.
- 12.2 The exercise of judgement by the Council in this regard is subject to legal requirements including NFVF policies to the extent applicable, and should be guided by what is appropriate for the organisation and achieving the objectives of the delegation.
- 12.3 The Council shall have the power to delegate to any specific person or Committee any of its powers and discretions and to grant to such person or Committee general or specific powers of sub-delegation.

- 12.4 Such delegation shall be subject to the limitations and conditions imposed by the Council and will not absolve the Council of its liability and accountability for the due exercise of any authority delegated by it in terms of the PFMA.

13. COUNCIL COMMITTEES

- 13.1 The Council may form such Committees as may be necessary to facilitate efficient decision- making and to assist the Council in the execution of its duties, power and authorities. The Council presently has the Committees set out in Appendix A;
- 13.2 Each Committee of the Council shall be constituted with formal terms of reference which shall determine, *inter alia*, the membership, purpose, powers and authority of the committee, the scope of its mandate and its relationship to the Council;
- 13.3 As general principles:
- 13.3.1 Council Committees will have no executive authority unless otherwise specifically resolved by the Council in respect of particular issues within a Committee's remit. Council Committees shall discuss any matter referred to them and shall present their recommendations to the Council for approval;
 - 13.3.2 Council Committees will observe the same rules of conduct and procedures as the Council, unless the Council specifically determines otherwise in the Committee's terms of reference;
 - 13.3.3 Council Committees should be constituted having regard to the skills, expertise and experience of members in respect to the respective committees' mandates;
 - 13.3.4 In order to re-enforce the principle of executive accountability to the Council as set out in sections 13 and 14 of the NFVF Act, the CEO and CFO shall attend Committee meetings as permanent invitees;
 - 13.3.5 A formal report shall be provided by the Chairperson of each Committee to Council meetings, following the Committee meeting, to keep the Council informed and to enable the Council to monitor the Committee's effectiveness;
 - 13.3.6 Minutes of Committee meetings will be made available to all the Council members upon request;
 - 13.3.7 The Council shall have the power to alter the size of any of its Committees, to remove any member or members from a Committee and to fill any vacancies created by such removal subject to the NFVF Act where applicable. The Council shall review the membership of the Council Committees annually following the performance review of the Committees by Council to align with the strategic needs of the organisation; and
 - 13.3.8 The Council may by resolution dissolve any one or more of its Committees.
- 13.4 Decision-making process and circumstances where matters may be referred directly to the Council:
- 13.4.1 As a general principle, matters which are referred to the Council for approval should first

have been interrogated by Council EXCO and/or the relevant Council Committee before being referred to the Council for approval; and

- 13.4.2 In certain circumstances, however, notwithstanding the existence of the Committee structure outlined above and the fact that the Council has delegated certain authority to the established Committees, the Council shall be entitled, at the discretion of the Chairperson, to receive and deal with any matters within the scope of the Council's authority, even if such matter has not been considered by the relevant Committee before it being dealt with by the Council.

14 COUNCIL MEETINGS (CONFIDENTIALITY AND CONFLICT OF INTEREST)

14.1 Frequency and Quorum of Meetings:

- 14.1.1 The Council will meet at least four (4) times in each financial year and may convene additional meetings as and when necessary;
- 14.1.2 In addition to the rules of procedure set out in this Charter, meetings and proceedings of the Council will be governed by section 8 of the NFVF Act. The quorum necessary shall be the majority of its members (50% + 1);
- 14.1.3 In the absence of the Chairperson of the Council or the Deputy Chairperson, the meeting shall be chaired by any other Council member appointed by the majority vote of those Council members present at a duly convened meeting.

14.2 Council members' Right of Access to Information, Confidentiality and Records:

- 14.2.1 Council members will be entitled to access all information about the NFVF which is relevant to their role as Council members of the NFVF. Requests for information shall be directed through the Company Secretary;
- 14.2.2 The Council agrees that the maintenance of the confidentiality of Council proceedings is of paramount importance. In exceptional circumstances, and at the sole discretion of the Chairperson to facilitate the maintenance of confidentiality, meeting papers and submissions of a sensitive nature shall be left at the NFVF office on conclusion of the meeting for disposal by the Company Secretary;
- 14.2.3 The Company Secretary shall keep records of all Council submissions and papers, and of all material presented to the Council together with the minutes of meetings. These records will be accessible to all Council members upon request.

14.3 Conflicts of Interests:

- 14.3.1 The Council shall adopt a formal Conflict of Interests Policy in terms of which conflicts are

defined and appropriate procedures for dealing with conflicts are prescribed. As a minimum, such a policy should state that Council members should recuse themselves from discussions or decisions on matters in which they have a conflict of interest;

- 14.3.2 Council members are required to inform the Council of any conflicts or potential conflicts of interest they may have concerning particular items of business to be transacted at a meeting;
- 14.3.3 Council members should not vote and should not be counted in the quorum of a meeting to pass a resolution in respect of any business where they have a direct or indirect interest;
- 14.3.4 All declarations of interest made at any Council meeting shall be recorded in the minutes and forms submitted before the meeting;
- 14.3.5 If any Council member wilfully or negligently fails to disclose an interest as required above, and if he/she participates in the proceedings of the Council notwithstanding any conflict of interest, the relevant proceedings of the Council may, at the discretion of the other Council members be declared null and void. This shall be in addition to any other sanction that the Council may collectively apply in respect of the errant Council member, which sanction may include a recommendation to the Minister that such Council member be removed from the Council; and
- 14.3.6 In exceptional circumstances, the Council may decide that in the light of interests disclosed by a Council member, such Council member shall not be entitled to receive any further information on any particular matter before the Council and shall instruct the Company Secretary accordingly.

15. PERFORMANCE EVALUATION

The Council shall annually review the performance of the Council as a whole and the performance of the respective Council Committees as well as the performance of individual Council Members

16. PROCESS FOR REVIEW OF THIS COUNCIL CHARTER

This Council Charter shall be reviewed by the Council at least once annually to ensure that it remains relevant to the NFVF's business and other objectives.