

HENGYUAN REFINING COMPANY BERHAD

(3926-U)

**NOMINATING AND REMUNERATION
COMMITTEE
TERMS OF REFERENCE**

Updated as at 27 February 2018

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1. PURPOSE

- 1.1 The Nominating and Remuneration Committee (“BNRC”) is established as a committee of the Hengyuan Refining Company Berhad (formerly known as Shell Refining Company (Federation of Malaya) Berhad (“Company”) Board of Directors (“the Board”) with the following primary objectives:

Nomination Function

- 1.1.1 To recommend nominations to the Board for appointments to the Board and the Board Committees, as well as to review and recommend to the Board the employment of the Senior Management listed in Appendix I.
- 1.1.2 To review the required mix of skills, experience, knowledge, core competencies, responsibilities and contribution of the Directors (respectively and collectively) of the Board.
- 1.1.3 To assist the Board in reviewing on an annual basis the appropriate size and balance as well as the performance and effectiveness of the Board and all Board Committees.
- 1.1.4 To review and make recommendations to the Board on succession planning and human capital development.

Remuneration Function

- 1.1.5 To establish formal and transparent remuneration policies and procedures for Directors and Senior Management.
- 1.1.6 To determine and agree with the Board the remuneration framework for the Directors and Senior Management.
- 1.1.7 To review and recommend the individual remuneration packages for the Directors and Senior Management within the terms of such agreed policies and to ensure fair rewards for their contributions to the Company’s overall performance.

2. COMPOSITION AND APPOINTMENT

- 2.1 The BNRC members shall be appointed by the Board from amongst their number and shall consist of not less than three (3) members, all of whom shall be Non-Executive Directors, and a majority of whom shall be Independent Directors.
- 2.2 No alternate Director shall be appointed as a member of the BNRC.
- 2.3 The Chair of the BNRC shall be a Senior Independent Non-Executive Director or an Independent Non-Executive Director appointed by the Board.
- 2.4 The BNRC members may relinquish their membership in the BNRC with prior written notice to the Secretary. In the event of any vacancy arising in the BNRC resulting in the number of members of the BNRC falling below three (3), the vacancy shall be filled as soon as possible, but not later than three (3) months from any arising vacancy.

3. AUTHORITY

- 3.1 The BNRC is authorised by the Board to perform the following:-
 - 3.1.1 Secure the resources in order to perform its duties as set out in its terms of reference.
 - 3.1.2 Have full and unrestricted access to Human Resources, including without limitation, its information, records, properties and personnel.
 - 3.1.3 Engage or otherwise obtain independent legal or other professional advice, service and/or expertise at the expense of the Company with prior consent of the Board, to perform its duties, or obtain the assistance of Management where necessary. Prior to the selection of such advisor, the BNRC shall carry out an independent assessment of such advisor.
 - 3.1.4 Provide its recommendations to the Board for its consideration and approval.

4. FUNCTIONS AND DUTIES

The main functions and duties of the BNRC shall include, but are not limited to the following:

4.1 Nomination Functions and Duties

4.1.1 Assessment of Board Composition

- (a) Establish policies formalising the Company's approach to Board diversity having regard to, among others, factors such as diversity in gender, nationality, age, culture, socio-economic background, skills, experience and independence.
- (b) Annually evaluate, review and recommend to the Board the appropriate size and composition of the Board, required mix of skills, experience and other qualities, including core competencies which the Directors shall bring to the Board to ensure that they are in line with the Company's requirements.
- (c) Consider and recommend any policy regarding the period of service of Non-Executive Directors, tenure of Independent Directors and the term of office of Board Committee members, including the Chair of the respective Board Committees.
- (d) Periodically review the term of office, and terms of reference of all Board Committees, assisted by the Company Secretary.

4.1.2 Appointments

- (a) Consider and recommend to the Board the candidates for new appointments as Directors in accordance with such policies, having regard to the candidates':
 - Skills, knowledge, expertise and experience;
 - Time commitment, character, professionalism and integrity;
 - Ability to work cohesively with other members of the Board;
 - Specialist knowledge or technical skills in line with the Company's strategy;
 - Diversity in age, gender and experience/ background; and
 - Number of directorships in companies outside the Company.

The BNRC shall also consider the future needs and size of the Company against the current composition of the Board to identify any gaps in its recommendation.

- (b) In circumstances where the Company has a Large Shareholder the BNRC shall assist the Board in including a number of directors which fairly reflects the investment in the Company by shareholders other than the Large Shareholder.

In circumstances where a shareholder holds less than the majority but is still the largest shareholder, the BNRC shall assist the Board in exercising judgement in determining the appropriate number of directors sitting on the Board which fairly reflects the investment in the Company by the remaining shareholders.

- (c) Make recommendations to the Board for the appointment of the Chair of the Board Committees, Managing Director and/or Senior Independent Non-Executive Director.
- (d) Ensure that a formal letter of appointment setting out clearly the expected time commitment, Board Committee service, involvement outside Board meetings and the protocol for accepting new Directorships is provided to the Non-Executive Directors upon appointment to the Board. An induction plan duly approved by the Chair shall also be provided to the Directors upon their appointment.
- (e) Solicit and consider the views of existing Board members, Management, major shareholders, independent search firms and a variety of other independent sources to identify suitably qualified candidates for appointment as Directors and members of the respective Board Committees. If independent sources were not used, the BNRC shall make disclosure to that effect in the annual report and provide an explanation as to why other sources were not used.
- (f) For Independent Directors, firstly to evaluate the “independence” of the candidate in accordance with paragraph below and secondly to evaluate the candidates’ ability to discharge such responsibilities as may be expected from an Independent Non-Executive Director.

The BNRC shall ensure that the Board comprises a majority of Independent Directors and shall carry out annual assessments to ensure the continued independence of the Directors in making its recommendations to the Board.

A Director would not be an “Independent Director” if:-

- The Director has been an employee/officer (except a Non-Executive Director) of the Company or any related corporation within the preceding two (2) years.
- The Director has had a material business relationship with the Company either personally or with other person or through a firm or company of which he is a partner, director or major shareholder, as the case may be, within the last three (3) calendar years (“material business relationship”) for this purpose means remuneration, other than *de minimus* remuneration or director’s fees, was paid by the Company, its subsidiaries or affiliates to the director, or to any entity in which the director has a beneficial ownership interest of 2% or more, or to an entity by which the director is employed, or self-employed other than as a director; remuneration is deemed *de minimus* if such remuneration is RM250,000 or less in any calendar year or as otherwise determined and disclosed by the Board.
- The Director has received additional remuneration other than director’s fees (and related expenses as approved by the Board and shareholders) or *de minimus* amounts where;
 - the director acts as a nominee or representative of any executive director or major shareholder or any related corporation;
 - the director has been engaged as an adviser by the Company or is presently a partner, director (except as an independent director) or major shareholder of a firm or a company that provides professional advisory services to the Company; or
 - the director has close family ties with any of the Company’s advisers, directors or Management. These include spouse, parent, brother, sister, child (including adopted or step-child) or the spouse of such brother, sister or child.

- (g) Establish a gender diversity policy to ensure that due consideration is given to female candidates as Directors and/or Board Committee members and/or Senior Management positions and measures taken to facilitate achievement of such policies and targets, all of which shall be disclosed in the annual report.
- (h) Appointment of Key Senior Management Positions:
- Review and recommend to the Board for its approval, the appointment, evaluation, promotion, resignation, disciplinary actions and termination of the key Senior Management positions listed in Appendix I.
 - Ensure that appointments of key pivotal positions are based on objective criteria, merit and with due regard for diversity in skills, experience, age, cultural background and gender.

4.1.3 Retirement and Re-election

- (a) Ensure that every Director, including the Executive Directors, shall be subject to retirement at least once every three (3) years. A retiring Director shall be eligible for re-election.
- (b) Consider whether any renewal of a Director's appointment is necessary; and in assessing this, to consider the said Director's expertise, skill, knowledge, expertise and core competency, his/her contribution to the Board taking into account the Company's key business strategies.
- (c) Recommend to the Board, candidates for re-election of Directors by shareholders. The tenure of an Independent Non-Executive Director should not exceed a cumulative term limit of nine (9) years. Upon completion of the nine (9) years, an Independent Non-Executive Director may continue to serve on the Board as a Non-Independent Director. If the Board intends to retain an Independent Director beyond nine (9) years, it should justify and seek annual shareholders' approval. If the Board continues to retain the Independent Director after the twelfth (12) year, the Board should seek annual shareholders' approval through a two-tier voting process as follows:-

- Tier 1: Only the Large Shareholder(s) of the Company votes;
- Tier 2: Shareholders other than Large Shareholder(s) votes.

4.1.4 Succession Planning

- (a) The BNRC shall review on a regular basis the leadership needs of the Company with a view to ensuring the continued ability of the organization to compete effectively in the marketplace.
- (b) The BNRC shall establish and ensure, with the assistance of Senior Management, that an appropriate succession planning framework, talent management and human capital development program is in place for the Senior Management positions, taking into account the skills required and the challenges and opportunities faced by the Company.
- (c) Oversee succession planning and make recommendations to the Board for the Chairman of the Board and Directors.

4.1.5 Annual Performance Assessment

- (a) Assist the Board in establishing procedures and processes towards an annual assessment of the effectiveness of the Board as a whole and each Board Committee (including its size and composition), as well as the contribution of each individual Director. The method/approach of the assessment and outcome of the evaluation shall be documented and disclosed in the annual report.
- (b) Develop, maintain and review the criteria for evaluating the Board's, and Board Committees' and each individual Director's performance.
- (c) Conduct a Board evaluation which is periodically facilitated by a professional, experienced and independent party. The use and identity of the independent party shall be disclosed in the annual report.

- (d) The criteria used in the annual assessment should include the following:
- will and ability to challenge critically and ask the right questions;
 - character and integrity in dealing with potential conflict of interest situations;
 - commitment to serve the Company with due diligence and integrity;
 - confidence to stand up for a point of view; and
 - contribution and performance, caliber and personality.
- (e) Ensure that appropriate actions are taken based on the results of the annual assessments, to continuously enhance the Board's overall performance and identify opportunities for improvement.
- (f) Review the terms of office and performance of the various Board Committees and each of their members annually to determine whether the Board Committees and each of their members have carried out the duties in accordance with its respective terms of reference. The BNRC shall seek the views of the Chair of the respective Board Committees in assessing the performance of their members, other than that of the respective Chair of such Committees.

4.1.6 Training and Development

- (a) Recommend suitable orientation, educational and training programs to train and equip new and existing Directors continuously as well as to ensure that they are kept abreast of developments in the industry and changes in the relevant regulatory and statutory requirements.
- (b) Ensure a statement is made by the Board in the Company's annual report, containing a description on the type of training attended by Directors during the financial year.

4.2 Remuneration Functions and Duties

- 4.2.1 Review and recommend to the Board a formal and transparent remuneration policy and framework for Directors and Senior Management drawing on external

consultants' advice as necessary. In doing so, the BNRC should perform the following:

- (a) Ensure that compensation policies and packages of Directors and Senior Management are reflective of the Company's demands, complexities and performance as a whole as well as skills and experience required, and in line with the strategic objectives of the Company which rewards contribution to the long-term success of the Company.
- (b) Ensure alignment of the compensation scale to corporate performance, and that compensation offered is set at a competitive level for similar roles and responsibilities within current market practices by comparable companies in order to attract, retain and motivate high caliber individuals.
- (c) Ensure that the remuneration incentives do not conflict with the Directors' and Senior Management's obligation to bring objectivity and independent judgment to the Company.

4.2.2 Within the terms of the agreed remuneration framework or policy, determine, review and if deemed appropriate, endorse for the Board's approval, the remuneration packages including annual bonus and salary increment for the Directors and Senior Management, taking into account their recent remuneration history, the individual's merit, qualification, skills, competence and performance and rewarding their contribution to the Company having regard to their achievement of their performance targets and the Company's operating results.

4.2.3 Periodically review and monitor the framework, policies and procedures, levels of remuneration, any changes to employee compensation and benefit arrangements applicable to Directors and Senior Management and make recommendations to the Board if appropriate to ensure consistency with the Company's remuneration objectives.

4.2.4 Approve employee share plans and other incentive plans for Directors and Senior Management and any amendments to such plans, when applicable.

4.2.5 Consider and advise on the terms of any contract to be offered to Directors and Senior Management ensuring that contractual terms on termination are fair to the individual.

4.2.6 Ensure timely and pro-active communication of key aspects of remuneration strategy with key shareholders and stakeholders.

4.2.8 Review and recommend the extension of service, remuneration and compensation and benefits packages of the key pivotal positions, who have reached the age of retirement.

4.3 Disclosure and Reporting

4.3.1 Ensure that a statement on the Company's activities in the discharge of its nomination duties for the financial year is included in the Company's annual report.

4.3.2 Ensure detailed disclosure on named basis for the remuneration of individual Directors stating the following:

(a) the remuneration received by the Directors of the Company, stating the amount they received from the Company; and

(b) the amount in each component of the remuneration (e.g.: fees, salaries, bonuses, benefits in kind and other emoluments based on an estimated money value) for each Director.

4.4.3 Ensure detailed disclosure on a named basis for the top five (5) Senior Management's remuneration components, which include salary, bonus, benefits-in-kind and other emoluments in bands of RM50,000.

5. MEETINGS

5.1 Frequency

5.1.1 The BNRC shall meet at least twice a year and as and when necessary and at such other time(s) as it deems necessary to fulfil its duties and responsibilities as set out in these Terms of Reference.

5.1.2 Other members of the Board and Management may attend meetings upon the invitation of the BNRC.

5.2 Notice and Agenda

5.2.1 The Company Secretary shall issue and circulate the notice of the BNRC meetings to each BNRC member and all other invited attendees confirming the venue, time and date at least five (5) working days before each meeting together with the agenda and supporting papers.

5.2.2 The BNRC meeting agendas shall be the responsibility of the Chair with input from the BNRC members, and assisted by the Company Secretary. Where necessary, the agenda shall include input from Management or other persons deemed appropriate to participate in this process.

5.3 Quorum

5.3.1 The quorum for a meeting of the BNRC shall be two (2). In the absence of the Chair, the BNRC members present shall elect a Chair from amongst them to chair the meeting.

5.4 Meeting Mode

5.4.1 A meeting of the BNRC shall normally be conducted face-to-face to enable effective discussion; however, meetings may also be conducted via telephone conferencing, video conferencing or other appropriate means as determined by the BNRC.

5.4.2 The BNRC may from time to time and if deemed appropriate, consider and approve and/or recommend relevant matters via a Circular Resolution in writing, in lieu of formally convening a meeting. The Circular Resolution shall be as valid and effectual as if it had been passed by a meeting of the BNRC duly convened. Approval of the BNRC obtained by an BNRC Circular Resolution must be signed or approved by all BNRC members subject to 5.5.2.

5.5 Voting

5.5.1 All resolutions of the BNRC shall be adopted by a simple majority vote, each BNRC member having one vote. In case of equality of votes, the Chair shall have a second or casting vote.

5.5.2 A BNRC member is required to abstain from deliberations and voting in respect of any matter which may give rise to an actual or perceived conflict of interest situation.

5.6 Meeting Minutes

5.6.1 The minutes of the meeting shall faithfully record the deliberations and decisions of the BNRC. Minutes shall include compiled instructions as matters arising for discussion at each meeting to ensure proper follow through.

5.6.2 Minutes shall be circulated to BNRC members (in draft form) for comments within 10 working days of the meeting. Minutes (in final draft form) shall be distributed to BNRC members at least 5 working days before the following meeting and shall be approved by the Chair of the BNRC of the relevant meeting at which the proceedings are held or by the Chair of the next succeeding meeting.

5.6.3 Copies of minutes of each meeting shall be distributed to all members of the Board.

5.6.4 The Chair of the BNRC shall update the Board on the activities undertaken by the BNRC at each Board meeting.

5.7 Secretary

5.7.1 The Secretary to the BNRC shall be the Company Secretary.

5.7.2 The Secretary shall organise and provide assistance at BNRC meetings and have the following key responsibilities:

- ensure meetings are arranged and held accordingly;
- assist the Chair of the Committee in planning the BNRC's activities;
- draw up meeting agendas in consultation with the Chair of the BNRC and maintain the minutes and draft its scheduled activities for the financial year;

- ensure structured communication channels between the Board and the BNRC;
- ensure proceedings of meetings are recorded and the minutes circulated in a timely manner, and reviewed by the BNRC before disseminating them to the Board; and
- ensure BNRC recommendations presented to the Board are supported by papers that explain the rationale for the BNRC's recommendations.

6. **COMMITTEE CHAIR**

6.1 The following are the main duties and responsibilities of the Chair:

6.1.1 Steer the BNRC to achieve its objectives;

6.1.2 To ensure that the responsibilities of the BNRC is discharged in accordance with the rules and regulations to which it is subject to, and if required in consultation with the Secretary;

6.1.3 The Chair of the BNRC should encourage a healthy debate on the issues at hand and bring to the BNRC a healthy level of scepticism and independence;

6.1.4 Provide leadership to the BNRC and ensure proper flow of information to the BNRC, reviewing adequacy and timing of documentation;

6.1.5 Ensure that consensus is reached on every BNRC resolution and where considered necessary, call for a vote and the decision will be made by simple majority;

6.1.6 Ensure that all BNRC Members are enabled and encouraged to play their role in activities. This includes making certain that all BNRC Members receive timely, relevant information tailored to their needs and that they are properly briefed on issues arising at BNRC meetings; and

6.1.7 Manage the processes and working of the BNRC Committee and ensure that the BNRC discharges its responsibilities.

7. MEMBERS

7.1 Each BNRC Member will be expected to:

7.1.1 Provide independent opinions to the fact-finding, analysis and decision-making process of the BNRC, based on their experience and knowledge;

7.1.2 Consider viewpoints from the other BNRC Members and make decisions and recommendations for the best interest of the Board collectively;

7.1.3 Keep abreast of the latest corporate governance guidelines in relation to the BNRC and the Board as a whole;

7.1.4 Continuously seek out best practices in terms of the processes utilised by the BNRC, following which these should be discussed with the rest of the Committee for possible adoption.

7.1.5 Abstain from the deliberation and voting on decision in respect of his /her remuneration.

8. ANNUAL PERFORMANCE ASSESSMENT

8.1 The BNRC shall perform a self-assessment annually to assess its effectiveness in carrying out the duties as set out in this terms of reference and report the results to the Board, recommending any changes it deems necessary for the Board's approval.

8.2 The Board shall review the composition, performance and effectiveness of the BNRC and each of its members annually to ensure that the Committee has the right composition, and sufficient, recent and relevant skills and expertise to effectively fulfil their roles.

8.3 All such reviews and assessments shall be properly and formally documented.

9. REVIEW OF THE TERMS OF REFERENCE

9.1 The BNRC shall recommend any change to its terms of reference in such manner as the BNRC deems appropriate to the Board for approval. These Terms of Reference shall be assessed, reviewed and updated from time to time and whenever and wherever necessary i.e. when there are changes to the Malaysian Code of Corporate Governance, Listing Requirements of Bursa Malaysia Securities Berhad or any other regulatory requirements. These Terms of Reference shall also be reviewed and updated when there are changes to the direction or strategies of the Company that may affect the BNRC's role, authority or responsibilities.

Note:

¹ *Large Shareholder means a person who:*

- *is entitled to exercise, or control the exercise of, not less than 33% of the voting shares in the Company;*
- or*
- *is the largest shareholder of voting shares in the Company; or*
- *has the power to appoint or cause to be appointed a majority of the Directors of the Company; or*
- *has the power to make or cause to be made, decisions in respect of the business or administration of the Company, and to give effect to such decision or cause them to be given effect to.*

The decision for the resolution is determined based on the vote of Tier 1 and a simple majority of Tier 2. If there is more than one Large Shareholder, a simple majority of votes determine the outcome of the Tier 1 vote.