



# **22nd Century Group, Inc. - Board of Directors**

## **Corporate Governance and Nominating Committee Charter**

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### **1. AUTHORITY AND PURPOSE**

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The Board of Directors (“Board”) of 22nd Century Group, Inc, (“XXII” or the “Company”) has established the Corporate Governance and Nominating Committee (the “Committee”) to assist the Board in meeting its responsibilities in Board oversight matters, identifying potential candidates for current or upcoming vacancies within the Company, and review and make recommendations on corporate governance matters affecting the Company. The Committee will have the authority to take all actions on behalf of the Board as is set forth in this Charter.

### **2. COMPOSITION**

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#### **2.1 Chair**

On an annual basis, the Board, upon the recommendation of the Governance and Nominating Committee, will appoint a Chair of the Committee. The Board may also appoint a member as Committee Vice Chair to act when the Chair is unavailable. The Chair will preside over and conduct Committee meetings or designate another Committee member to do so in the absence of the Chair and Vice Chair.

#### **2.2 Secretary**

XXII’s Corporate Secretary or his/her designee will be responsible for recording and drafting minutes of all meetings for distribution to Committee members for review and approval.

#### **2.3 Members**

The Committee shall be comprised of at least three directors as determined by the Board. The majority of the Committee members shall be “independent,” as defined by the NYSE American listing standards and the Securities and Exchange Commission (the “SEC”), and shall be free from any relationship that, in the opinion of the Board, would interfere with the exercise of his or her independent judgment as a member of the Committee.

The Board may replace Committee members at any time. Directors of XXII sign a Conflict of Interest policy and its principles and application shall extend to all work such director does for Board Committees.

### **3. OPERATIONS**

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#### **3.1 Committee Meetings**

The Committee will meet at least four times per year and at such times as the Chair deems necessary and appropriate. The Committee will provide a report to the Board no later than the regularly scheduled Board meeting immediately following a Committee meeting.

Meetings may include any participants the Committee deems appropriate and will be of sufficient duration and scheduled at such times as the Committee deems appropriate to discharge its duties. The Committee will allow for independent and separate discussions with Management and other resources as deemed necessary to ensure candid and open communication.

Attendance at any Committee meeting may be in-person, telephonic or via-internet enabled video conferencing.

#### **3.2 Committee Decisions**

Committee meetings require the presence of a quorum (at least one half of the Members) and Committee actions require a majority vote of all Members present. Unless Company policies or legal requirements provide otherwise, the Committee may also take action without a meeting upon receipt of unanimous written consent.

Unless otherwise specified by a resolution approving a decision of the Committee, any Member may execute, on behalf of the Committee, all documents that are necessary or desirable to implement Committee decisions.

#### **3.3 Agendas and Meeting Materials and Minutes**

Members may suggest agenda topics to the Chair. The Chair will circulate an Agenda and meeting materials sufficiently in advance of Committee meetings to allow for appropriate preparation and review by Members.

The Chair may call a special Committee meeting with twenty-four (24) hour notice to Members, or such shorter notice as the Chair deems appropriate in the circumstances.

Meeting minutes will identify all persons in attendance and adequately reflect all matters considered or acted upon by the Committee.

Meeting minutes should be prepared within a reasonable time after each meeting and may be approved through electronic voting. Committee records and minutes will be maintained by the Corporate Secretary in accordance with XXII's record retention requirements.

The Committee may establish such rules as it determines necessary or proper to

conduct Committee business which are not contrary to XXII's Bylaws, Corporate Governance Guidelines, policies or legal requirements.

### **3.4 Assistance from Management, Third Parties and Subcommittees**

The Committee will have reasonable access to, and complete and open communication with the Company's Management and access to XXII's corporate records relevant to the Committee's duties.

The Committee may form and delegate to one or more subcommittees all or any portion of the Committee's authority, duties, and responsibilities.

In addressing Committee business, the Committee may seek advice and assistance from and may delegate authority to Company employees and third parties, including advisers and consultants. The Committee may seek, in its sole discretion and authority, appropriate third-party expert advice and approve the related fees and terms.

## **4. DUTIES AND RESPONSIBILITIES**

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The Committee will address all matters consistent with this Charter, and from time to time as the Board may request, including but not limited to the following areas set forth below:

- Board oversight functions which includes reviewing, assisting and making recommendations to the Board on matters relating to:
  - The number of Directors to comprise the Board, and the appropriate Committees of the Board.
  - Establishment of a "job description" for Board members, setting forth the responsibilities and expected participation from directors.
  - Periodic self-evaluations by the Board, its Committees and individual Directors of their respective performance.
  - Consideration of the fitness of incumbent Directors to serve as a Director, including appropriate attention to the Company, the roles of Directors, conflicts of interest and attendance at meetings.
  - Monitoring the employment or occupational status of Board members, which will be considered by the Committee in evaluating whether to nominate Board members for re- election.
  - Oversight of the annual evaluation by the Board of the performance of the Company's executive officers and management generally.
- Nominating functions related to positions and vacancies within the Company's executive and Board levels, which includes:

- Recommending to the Board the qualifications for membership on the Board and each Board committee, term limits, length of service, etc.
- Identifying, recommending and recruiting candidates to be nominated to fill open positions on the Board and to be nominated for election by the shareholders at each annual meeting of shareholders.
- Developing, maintaining and managing a process to consider Director candidates recommended by shareholders in a timely manner in accordance with the Bylaws. The Committee will consider and apply the same criteria to any candidates properly submitted to the Committee by shareholders that the Committee applies to its own candidates.
- Identifying candidates for the position of CEO of the Company, when necessary, and manage the process for candidate assessment and recruitment, in concert with the full Board.
- The sole authority to retain and terminate search firms, as needed, to identify Director or CEO candidates and approve the fees and terms of retention of any such search firms.
- Corporate Governance functions including:
  - Reviewing and recommending to the Board any proposed changes to the Company's articles of incorporation, Bylaws and other governance documents and that the Company remains current in its governance policies.
  - Interpreting, if necessary, and confirming compliance with the Company's corporate governance policies and serve as the final arbiter of any questions of interpretation of such policies or of possible conflicts of interest of Board members and of the Company's executive officers.
  - Ensuring that the following policies and compliance requirements are reviewed and updated, as necessary, at least annually:
    - Corporate Governance Guidelines
    - Code of Conduct and Ethics
    - Conflicts of Interest Statements
    - Board Evaluations
  - Encouraging the Directors to periodically receive continuing education in the areas of corporate governance and function.

- Developing and manage a program for the orientation of new Directors.
- Recommending committee composition and assignments for each Board committee and submit such recommendations to the Board for ratification.
- Assisting in creation of and review the succession plan relating to the Company's executive officers and make recommendations to the Board.
- The ability to form and delegate authority to subcommittees when appropriate, subject to applicable requirements of applicable law.

## 5. CHARTER

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### 5.1 Review

At least annually, the Committee shall review and assess the adequacy of this Charter and recommend changes to the Board for approval.

Revision Date	Comments
11/27/2020	Implementation of New Committee Charter.