

## Audit Committee Charter

### Purpose

The purpose of the Audit Committee of the board of directors is to assist the board of directors in fulfilling its responsibilities for generally overseeing:

- The company's accounting and financial reporting processes as well as the audit and integrity of the company's financial statements.
- The qualifications and independence of the company's independent auditor.
- The performance of the company's independent auditor.
- The company's compliance with its systems of disclosure controls and procedures, internal controls over financial reporting and compliance of the company's employees, directors and consultants with ethical standards adopted by the company.

The committee is also responsible for preparing the report required by Securities and Exchange Commission (SEC) rules to be included in the company's proxy statement for the annual meeting of stockholders, and for performing such other duties and responsibilities as are enumerated in or consistent with this charter.

The committee shall also serve as the company's qualified legal compliance committee subject to the provisions of Exhibit A, the Qualified Legal Compliance Committee Charter, until such time as the board of directors shall appoint a qualified legal compliance committee.

### Composition

1. Membership and Appointment. The committee shall consist of at least three directors. Members of the committee shall be appointed by the board of directors and may be removed by the board of directors in its discretion.
2. Qualifications.
  - Each member of the committee must meet the independence and other applicable standards and requirements of the securities exchanges on which the company's securities are listed and the rules and regulations promulgated by the SEC and must be determined by the board of directors of the company to be independent. The independence and other applicable standards are set forth on Schedule A to this charter for informational purposes.
  - All members of the committee must comply with the financial literacy requirements of the securities exchanges on which the company's stock is listed.
  - At least one member of the committee must be determined by the company's board of directors to be an audit committee financial expert within the meaning of applicable rules and regulations promulgated by the SEC, the standards of all securities exchanges on which the company's stock is listed, the standards established by the board of directors and other applicable laws.
  - Each member of the committee shall have such other qualifications as set forth by the board of directors.
3. Chairperson. The board of directors may designate a chairperson of the committee. In the absence of that designation, the committee may designate a chairperson by majority vote of the committee members.

### Responsibilities

The following are the principal recurring responsibilities of the committee. The committee may perform such other functions as are consistent with its purpose and applicable law and as the board of directors or the committee deem appropriate. In carrying out its responsibilities, the committee believes its policies and procedures should remain flexible, in order to best react to changing conditions and circumstances.

1. Select and Hire the Independent Auditor. The committee shall be responsible for appointing, compensating, retaining and, where appropriate, replacing the independent auditor. The independent auditor will report directly to the committee.
2. Supervise and Evaluate the Independent Auditor. The committee shall:
  - Oversee and evaluate the work of any registered public accounting firm engaged for the purpose of preparing or issuing an audit report or performing other audit, review or attest services for the company.
  - Review and resolve any disagreements that may arise between management and the independent auditor regarding financial controls or financial reporting.
  - At least annually, obtain and review a report by the independent auditor that describes (i) the independent

auditor's internal quality control procedures, and (ii) any material issues raised by the most recent internal quality-control review, or peer review, of the independent auditor or by any inquiry or investigation by governmental or professional authorities, within the preceding five years, regarding any independent audit performed by the independent auditor, and any steps taken to deal with any such issues.

3. Evaluate the Independence of the Independent Auditor. The committee shall:
  - Review and discuss with the independent auditor the written independence disclosures required by the applicable requirements of the Public Company Accounting Oversight Board.
  - Review and discuss with the independent auditor on a periodic basis any other relationships or services (including permissible non-audit services) that may affect its objectivity and independence.
  - Oversee the rotation of the independent auditor's lead audit and concurring partners and the rotation of other audit partners, with applicable time-out periods, in accordance with applicable law.
  - Take, or recommend to the board of directors that it takes, appropriate action to oversee the independence of the company's outside auditor.
4. Approve Audit and Non-Audit Services and Fees. The committee shall (i) review and approve, in advance, the scope and plans for the audits and the audit fees and (ii) approve in advance all non-audit services to be performed by the independent auditor that are not otherwise prohibited by law and any associated fees. The committee may delegate to one or more members of the committee the authority to pre-approve audit and permissible non-audit services, as long as this pre-approval is presented to the full committee at scheduled meetings. The committee may, in accordance with applicable law, establish pre-approval policies and procedures for the engagement of independent accountants to render services to the company.
5. Review Financial Statements. The committee shall review and discuss the following with management and the independent auditor, as applicable:
  - The company's annual audited and quarterly financial statements, including the disclosures in "Management's Discussion and Analysis of Financial Condition and Results of Operations".
  - The results of the independent audit and the quarterly reviews, and the independent auditor's opinion on the annual financial statements.
  - The reports and certifications regarding internal controls over financial reporting and disclosure controls.
  - Major issues regarding accounting principles and financial statement presentations, including any significant changes in the company's selection or application of accounting principles.
  - Analyses prepared by management or the independent auditor setting forth significant financial reporting issues and judgments made in connection with the preparation of the financial statements, including analyses of the effects of alternative GAAP methods on the financial statements.
  - The effect of regulatory and accounting initiatives, as well as off-balance sheet structures, on the company's financial statements.
  - Any significant changes required in the audit plan.
  - Any problems or difficulties the independent auditor encountered in the course of its audit work, including any restrictions on the scope of the auditor's activities or on access to requested information, and management's response.
  - Any significant disagreements between management and the independent auditor.
6. Reports and Communications from the Independent Auditor. The committee shall review and discuss reports from the independent auditor concerning the following:
  - All critical accounting policies and practices that the company will use.
  - All alternative treatments of financial information within generally accepted accounting principles that the auditor has discussed with management, ramifications of the use of these alternative disclosures and treatments, and the treatment preferred by the independent auditor.
  - Other material written communications between the independent auditor and management, such as any management letter or schedule of unadjusted differences.
  - Other matters required to be communicated to the committee under generally accepted auditing standards and other legal or regulatory requirements.
7. Audit Committee Report. The committee shall prepare the report that SEC rules require to be included in the company's annual proxy statement.
8. Earnings Press Releases and Earnings Guidance. The committee shall review and discuss corporate policies with respect to earnings press releases (with particular attention to any use of "pro forma" or "adjusted" non-GAAP information), as well as corporate policies with respect to financial information and earnings guidance provided to analysts and ratings agencies.
9. Internal Controls. The committee shall review and discuss with management and the independent auditor the adequacy and effectiveness of the company's internal controls, including any changes, significant deficiencies or material weaknesses in those controls reported by the independent auditor or management and any special audit steps adopted in light of significant control deficiencies, and any fraud, whether or not material, that involves management or other company employees who have a significant role in the company's internal controls.
10. Disclosure Controls and Procedures. The committee shall review and discuss the adequacy and effectiveness of the company's disclosure controls and procedures.
11. Complaints. The committee shall oversee procedures established for the receipt, retention and treatment of complaints on accounting, internal accounting controls or audit matters, as well as for confidential and anonymous submissions by the company's employees concerning questionable accounting or auditing matters.
12. Risks. The committee shall review and discuss with management and the independent auditor the company's major

financial risk exposures and the steps management has taken to monitor and control those exposures, including the company's guidelines and policies with respect to risk assessment and risk management.

13. Related Party Transactions. The committee shall review the company's related party transaction policy and review and oversee all transactions between the company and a related person for which review or oversight is required by applicable law or that are required to be disclosed in the company's financial statements or SEC filings.
14. Hiring of Auditor Personnel. The committee shall set hiring policies with regard to employees and former employees of the independent auditor.
15. Serve as QLCC. The committee shall serve as the company's qualified legal compliance committee in accordance with the charter of such committee attached hereto as Exhibit A until such time as the board of directors of the company appoints a separate qualified legal compliance committee.

The function of the Audit Committee is primarily one of oversight. The company's management is responsible for preparing the company's financial statements, and the independent auditor is responsible for auditing and reviewing those financial statements. The committee is responsible for assisting the board of directors in overseeing the conduct of these activities by management and the independent auditor. The committee is not responsible for providing any expert or special assurance as to the financial statements or the independent auditor's work.

## **Procedures**

1. Meetings. The committee will meet at least four times each year (with additional meetings as it deems necessary or appropriate) at such times and places as the committee determines. The committee shall cause to be kept adequate minutes of its proceedings. The chairperson of the committee shall preside at each meeting. If a chairperson is not designated or present, an acting chair may be designated by a majority vote of the audit committee members present. The committee shall also meet periodically with management, the general counsel and the independent auditor in separate executive sessions. It is the responsibility of the committee to maintain free and open communications between the committee, the independent auditor and management of the company.
2. Reporting to the Board of Directors. The committee shall report regularly to the board of directors with respect to the committee's activities.
3. Authority to Retain Advisors. The committee shall have the authority to engage independent counsel or other advisors as it deems necessary or appropriate to carry out its duties. The company will provide appropriate funding, as determined by the committee, to pay the independent auditor, any outside advisors hired by the committee and any administrative expenses of the committee that are necessary or appropriate in carrying out its activities.
4. Charter Review. The committee shall review and reassess the adequacy of this charter annually and shall submit any recommended changes to the charter to the board of directors for approval.
5. Authority to Investigate. In the course of its duties, the committee shall have authority, at the company's expense, to investigate any matter brought to its attention.
6. Access. The committee shall be given full access to the chairperson of the board of directors, management and the independent auditor, as well as the company's books, records, facilities and other personnel.

## **Schedule A**

### **Supplemental Description of Audit Committee Member Qualifications and Requirements**

The following details the requirements for service on the audit committee set forth in the attached audit committee charter that apply to the members of the audit committee:

#### **Independence Requirements**

Each member of the committee must meet the independence requirements of the Nasdaq Stock Market (Nasdaq), applicable rules and regulations promulgated by the SEC, standards established by the board of directors and other applicable laws. For purposes of this section, "family member" means a person's spouse, parents, children and siblings, whether by blood, marriage or adoption, or anyone residing in such person's home. A director is not independent if, among other factors, he or she:

- accepted directly or indirectly, other than in his or her capacity as a member of the board of directors or a committee of the board of directors, any consulting, advisory, or other compensatory fee from the company or any subsidiary thereof, provided that, unless Nasdaq or the national securities association provide otherwise, compensatory fees do not include the receipt of fixed amounts of compensation under a retirement plan (including deferred compensation) for prior service with the company (provided that such compensation is not contingent in any way on continued service);
- is an affiliated person of the company or any subsidiary thereof, other than in his or her capacity as a member of the board of directors or a committee of the board of directors;
- has a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director;
- is, or at any time during the past three years was, employed by the company;
- accepted or has a family member who accepted any compensation from the company in excess of \$120,000 during any

period of twelve consecutive months within the three years preceding the determination of independence, other than (i) compensation for service on the board of directors or a committee of the board of directors, (ii) compensation paid to a family member who is an employee (other than an executive officer) of the company or (iii) benefits under a tax-qualified retirement plan, or non-discretionary compensation;

- is a family member of an individual who is, or at any time during the past three years was, employed by the company as an executive officer;
- is, or has a family member who is, a partner in, or a controlling shareholder or an executive officer of, any organization to which the company made, or from which the company received, payments for property or services in the current or any of the past three fiscal years that exceed 5% of the recipient's consolidated gross revenues for that year, or \$200,000, whichever is more, other than (i) payments arising solely from investments in the company's securities or (ii) payments under non-discretionary charitable contribution matching programs;
- is, or has a family member who is, employed as an executive officer of another entity where at any time during the past three years any of the executive officers of the company serve on the compensation committee of such other entity; or
- is, or has a family member who is, a current partner of the company's outside auditor, or was a partner or employee of the company's outside auditor who worked on the company's audit at any time during any of the past three years.

### **Other Requirements**

Each member of the committee must be able to read and understand fundamental financial statements, including the company's balance sheet, income statement and cash flow statement.

No member of the committee may have participated in the preparation of the financial statements of the company or any of the company's current subsidiaries at any time during the past three years.

### **Audit Committee Financial Expert Requirement**

At least one member of the committee shall be an "audit committee financial expert," as determined by the board of directors in accordance with SEC rules. An "audit committee financial expert" must have acquired, through either (i) education and experience as a principal financial officer, principal accounting officer, controller, public accountant or auditor or experience in one or more positions that involve the performance of similar functions, (ii) experience actively supervising a principal financial officer, principal accounting officer, controller, public accountant, auditor or person performing similar functions, (iii) experience overseeing or assessing the performance of companies or public accountants with respect to the preparation, auditing or evaluation of financial statements or (iv) other relevant experience, the following attributes:

- an understanding of generally accepted accounting principles and financial statements;
- the ability to assess the general application of such principles in connection with the accounting for estimates, accruals and reserves;
- experience preparing, auditing, analyzing or evaluating financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of issues that can reasonably be expected to be raised by the company's financial statements, or experience actively supervising one or more persons engaged in such activities;
- an understanding of internal control over financial reporting; and
- an understanding of audit committee functions.

At least one member of the committee shall be a financial expert as determined by the board of directors in accordance with the Nasdaq rules. This director must have past employment experience in finance or accounting, requisite professional certification in accounting, or any other comparable experience or background which results in the director's financial sophistication, including being or having been a chief executive officer, chief financial officer or other senior officer with financial oversight responsibilities. The financial expert required under the Nasdaq rules and the "audit committee financial expert" required under the SEC rules may be the same director if the board of directors determines such director meets the applicable requirements under both the Nasdaq and SEC rules.