

**EARTHLINK, INC.**  
**AUDIT COMMITTEE**  
**of the**  
**BOARD OF DIRECTORS**

**CHARTER**

**(As of January 18, 2011)**

**I. Charter**

This document shall be the official governing Charter (“*Charter*”) of the Audit Committee (the “*Committee*”) of the Board of Directors (the “*Board*”) of EarthLink, Inc., a Delaware corporation (the “*Company*”), adopted by the Committee and the Board as of January 18, 2011. This Charter hereby replaces and supersedes all former Charters. Definitions of certain terms used in this Charter are included in the Definitions section herein.

**II. Purpose and Scope**

The primary purpose of the Committee is to assist the Board in fulfilling its oversight responsibilities by overseeing: (a) the accounting and financial reporting processes of the Company, (b) the integrity of the Company’s financial reports provided by the Company to any governmental body or the public, (c) the Company’s systems of internal auditing and controls, (d) the Company’s finance, auditing, accounting, legal and financial reporting compliance as established by the Company, and (e) maintenance of an effective and efficient audit of the Company’s annual financial statements by a qualified and independent auditor.

Consistent with this purpose, the Committee should encourage continuous improvement of, and should foster adherence to, the Company’s policies, procedures and practices at all levels. The Company’s outside independent registered public accounting firm (“*Auditor*”) shall ultimately be accountable to the Committee, as representatives of the Company’s stockholders. The Committee shall be accountable and responsible to the full Board.

The Committee’s primary responsibilities and duties are to:

Serve as an independent and objective party to monitor the integrity of the Company’s financial reporting process and internal control systems;

Review and appraise the audit efforts of the Company’s Auditor and internal auditors;  
and

Provide open channels of communication among the Company’s Auditor, financial and senior management, the internal auditors and the Board.

The Committee will primarily fulfill these responsibilities by carrying out the activities enumerated in the Responsibilities and Duties section of this Charter.

### **III. Composition; Organization**

The Committee shall consist of three (3) or more Independent Directors, which number shall be determined by the Board from time to time in its discretion. The composition of the Committee shall satisfy the requirements of the Securities and Exchange Commission (SEC) and NASDAQ rules.

Each member of the Committee shall be an *Independent Director* and have *Financial Knowledge* (each as defined herein) at the time of his or her appointment to the Committee, and shall be free from any relationship that, in the judgment of the Board, would interfere with the exercise of his or her independent judgment as a member of the Committee. At least one (1) member of the Committee shall be an *Audit Committee Financial Expert* (as defined herein) at the time of his or her appointment to the Committee.

The Board annually shall elect the members of the Committee to serve for a term of one (1) year or other length of term, in the discretion of the Board, and shall otherwise serve until their successors are duly elected and qualified. Each member of the Committee shall serve at the pleasure and discretion of the Board and may be replaced or removed by the Board at any time and from time to time in its discretion. At the time of each annual election of the Committee members, or at other times in the discretion of the Committee or the Board, the Committee shall designate one member of the Committee to be its Chairman; in the absence of such designation by the Committee, the Board shall designate the Chairman.

### **IV. Meetings; Voting; Procedures**

The Committee shall meet at least four times annually or as more frequently as the discharge of its responsibilities shall require. The Chairman or a majority of the members of the Committee may call meetings of the Committee upon reasonable notice to all members of the Committee. The Committee shall meet at such times and places as shall be determined by the Chairman. At each meeting of the Committee, a majority of the members shall constitute a quorum, and a majority of the members present at any meeting at which a quorum is present may act on behalf of the Committee. When present, the Chairman will preside at all meetings of the Committee. The Committee may meet in person or by telephonic or video conference, and may take actions by unanimous written consent of all the members of the Committee. The Committee shall keep regular minutes of its proceedings and shall report to the Board in an appropriate and timely fashion.

As an element of its duties to encourage and facilitate open communication, the Committee should meet at least annually with representatives from the Company's executive management, internal auditors and its Auditor in separate sessions to discuss any matters that the Committee or any of these groups believe should be discussed. In addition, the Committee should meet with the Company's Auditor and a representative(s) of the Company's management at least quarterly to review the Company's financial statements consistent with the provisions of *Documents/Reports Review* section below.

### **V. Responsibilities and Duties**

To fulfill its responsibilities and duties, the Committee shall:

### Documents/Reports Review

1. Review (at least annually) and, if it deems necessary or appropriate, update this Charter. If any revisions to the Charter are deemed necessary or appropriate, submit such recommended changes to the Board for its consideration and approval.
2. Review and discuss the annual financial statements of the Company and of ITC^DeltaCom, Inc. ("DeltaCom") and any certification, report, opinion or review rendered by the Company's Auditor relating to such financial statements.
3. Review and discuss any regular internal reports to management prepared by the Company's internal auditors and management's response to such reports. In addition, at least semi-annually, the Company's internal auditors shall report directly to the Committee as to its activities and any other matter requested of it by the Committee.
4. Review and discuss with the Company's financial management and its Auditor, prior to filing with the Securities and Exchange Commission or releasing to the public, all audited and unaudited financial statements, management's discussion and analysis, and other disclosures to be included in the Company's and DeltaCom's 10-Q Quarterly Reports, 10-K Annual Reports, other reports that contain financial information and press releases that contain financial information.
5. Prepare the Audit Committee Report required by the Securities and Exchange Commission to be included in the Company's annual proxy statement.

### Independent Auditor

6. Have sole authority to select the Company's and DeltaCom's Auditor, considering independence and effectiveness and other factors it deems appropriate and in the best interests of the Company and DeltaCom, approve the fees and other compensation to be paid to such Auditor and, as the Board's representative, determine the funding from the Company therefore. The Committee shall have the sole authority to retain, remove and replace the Company's and DeltaCom's Auditor and approve all audit and permissible non-audit engagements of such Auditor.
7. The Committee shall oversee the independence of such Auditor. The Committee shall obtain from the Auditor and review (at least annually) all information it deems appropriate and necessary to assess the independence and performance of the Auditor. On at least an annual basis, the Committee should receive from the Auditor a formal written statement delineating and describing all relationships between the Company and such firm, consistent with Public Company Accounting Oversight Board (PCAOB) Rule 3526. The Committee should review and discuss with the Auditor all such identified relationships or services to examine and determine the independence and objectivity of the Auditor.
8. Periodically consult with the Auditor out of the presence of the Company's management regarding internal controls and the fullness and accuracy of the Company's financial statements.

### Financial Reporting Process

9. In consultation with the Auditor and the Company's internal personnel/auditors, review the integrity of the Company's financial reporting process, both internal and external, and oversee the Company's: (a) procedures for compliance with the "disclosure control and procedures," (b) Code of Ethics for Chief Executive Officer/Senior Financial Officers, and (c) various certification obligations, all as required pursuant to federal securities laws.

10. Consider any significant judgments made in management's preparation of the financial statements and management's view of each as to the appropriateness of such judgments.

11. Consider the Auditor's judgments about the quality and appropriateness of the Company's accounting principles as applied to its financial reporting.

12. Review the Company's material accounting policies and practices in the light of the requirements of the Financial Accounting Standards Board (FASB), the SEC, the PCAOB and the American Institute of Certified Public Accountants (AICPA); review at least annually the Company's and DeltaCom's descriptions of these critical accounting policies in their 10-K Annual Reports; consider and approve, if appropriate, significant changes to the Company's material accounting policies and practices as suggested by the Auditor, management of the Company and/or its internal auditors.

### Process and Organizational Improvements

13. Following completion of the annual audit, review separately with each of management, the Auditor and the Company's internal auditors any problems and difficulties encountered during the course of the audit, including any restrictions on the scope of work or access to required information, and management's response.

14. Review and resolve any significant disagreement among management and the Auditor or the Company's internal auditors in connection with the preparation of the financial statements.

15. Review with the Auditor, the Company's internal auditors and management the extent to which changes or improvements in financial or accounting practices, as approved by the Committee, have been implemented.

16. Review and discuss with management, the internal auditors and the Auditor the quality and adequacy of the Company's internal audit functions, organization, responsibilities, budget and staffing and recommend any appropriate changes to management.

### Legal Compliance/Risk Management; General

17. Review, with the Company's internal and/or outside legal counsel, legal compliance matters, including corporate securities trading policies, and any legal matter that could have a material impact on the Company's or DeltaCom's financial statements. In addition, at least annually, the Company's General Counsel shall report directly to the Committee as to the status of all legal compliance matters that could have a material impact on the Company's or

DeltaCom's financial statements and any other matter requested of the General Counsel by the Committee.

18. Review and discuss with management the Company's and DeltaCom's material financial and operating risks and exposures and the steps management has taken to monitor and control such risks and exposures, including the Company's risk assessment and risk management policies.

19. Approve in advance all transactions between the Company and any of its Affiliates and all Related Party Transactions; and the Committee shall be provided all pertinent information and data regarding any such proposed transaction.

20. Establish and oversee the Company's procedures for handling the receipt, retention and treatment of complaints received by the Company regarding material violations of applicable law, unethical conduct, breaches of the Company's Code of Business Conduct and Ethics and the Code of Ethics for Chief Executive Officer/Senior Financial Officers, and accounting, internal accounting controls or auditing matters, including procedures for the confidential, anonymous submission by employees of concerns regarding questionable accounting or auditing matters, as such may be required by the Sarbanes-Oxley Act of 2002 or other applicable law (collectively, "*Compliance Matters*"). The Committee shall have the authority to oversee, investigate and take remedial action with respect to any and all complaints regarding Compliance Matters. At least quarterly, the Company's General Counsel shall report directly to the Committee as to the receipt by the Company of any complaints relating to Compliance Matters. In addition, at least annually, the General Counsel shall report to the Board as to the status of all complaints relating to Compliance Matters of which the Committee has been made aware.

21. Consider in advance the potential impact of potential material Company financing and other capital structuring activities, acquisitions and investments on the Company's consolidated financial statements and internal control processes.

22. Receive periodic updates from management as to the status of management's assessment of the effectiveness of its internal control over financial reporting and review the related reports of management and the Auditors (if applicable) to be contained in the Company's and DeltaCom's Form 10-K Annual Reports.

23. Annually perform an evaluation of itself.

24. Perform any other activities consistent with this Charter, the Company's Bylaws and governing law, as the Committee or the Board may request or deems necessary or appropriate, including retention of outside counsel, experts, consultants and other advisors and to agree to fees and other terms of engagement of such retention.

## **VI. Definitions**

In the event the applicable rules and requirements of the Securities and Exchange Commission or the Nasdaq Stock Market are amended from time to time to revise their defined terms, the corresponding definitions herein shall be automatically amended to conform to such

definitions as revised by the Securities and Exchange Commission or the Nasdaq Stock Market, as applicable.

Affiliate means every (a) member of or nominee to the Board, (b) officer of the Company, and (c) beneficial or record owner of 5% or more of the Company's outstanding common stock (including members of such person's immediate family--spouse, parents, children, siblings, mothers and fathers-in-law, sons and daughters-in-law, brothers and sisters-in-law).

Audit Committee Financial Expert means a person who has the following attributes: (i) an understanding of generally accepted accounting principles and financial statements, (ii) the ability to assess the general application of such principles in connection with the accounting for estimates, accruals and reserves, (iii) 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, (iv) an understanding of internal control over financial reporting, and (v) an understanding of audit committee functions. In addition, the person shall have acquired such attributes through: (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.

Director means a duly elected and qualified individual serving on the Board of the Company.

Family Member means a person's spouse, parents, children and siblings, whether by blood, marriage (including any in-law relationships) or adoption, or anyone residing in such person's home.

Financial Knowledge means a working familiarity with basic finance and accounting practices, including the ability to read and understand fundamental financial statements, including balance sheets, income statements and cash flow statements.

Independent Director<sup>1</sup> means a person other than an executive officer or employee of the Company or its subsidiaries or any other individual having a relationship, which, in the opinion of the Company's Board, would interfere with the exercise of independent judgment in carrying out the responsibilities of a director. The following persons shall not be considered independent:

(a) a director who is, or at any time during the past three (3) years was, employed by the Company or by any subsidiary of the Company;

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<sup>1</sup> This definition of "Independent Director" is also subject to interpretive guidance provided by the Nasdaq Stock Market from time to time.

(b) a director who accepted or who has a Family Member who accepted any compensation from the Company or any subsidiary of 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 the following:

- (i) compensation for Board or Board committee service;
- (ii) compensation paid to a Family Member who is a non-executive employee of the Company or a subsidiary of the Company; or
- (iii) benefits under a tax-qualified retirement plan, or non-discretionary compensation;

(c) a director who is a Family Member of an individual who is, or at any time during the past three (3) years was, employed by the Company or by any subsidiary of the Company as an executive officer;

(d) a director who 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 (3) fiscal years that exceed 5% of the recipient's consolidated gross revenues for that year, or \$200,000, whichever is more, other than the following:

- (i) payments arising solely from investments in the Company's securities; or
- (ii) payments under non-discretionary charitable contribution matching programs;

(e) a director of the Company who is, or has a Family Member who is, employed as an executive officer of another entity where at any time during the past three (3) years any of the executive officers of the Company serve on the compensation committee of such other entity;

(f) a director who 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 (3) years;

(g) a director who, other than in his or her capacity as a member of the Board, the Committee or any other Board committee:

- (i) has, since being appointed to the Committee, accepted directly or indirectly any consulting, advisory or other compensatory fee from the Company or any subsidiary of the Company other than 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; or
- (ii) is an Affiliate of the Company or any subsidiary of the Company; or

(h) a director who participated in the preparation of the financial statements of the Company or any current subsidiary of the Company at any time during the past three (3) years.

Related Party Transaction means any transaction required to be disclosed pursuant to Securities and Exchange Commission Regulation S-K, Item 404.