



## **NOMINATING AND CORPORATE GOVERNANCE COMMITTEE CHARTER**

**February 16, 2017**

The Nominating and Corporate Governance Committee of the Board of Directors (the "Board") of Orion Energy Systems, Inc. (the "Company"), will have the purpose, responsibilities, authority and specific duties as described below.

### **Purpose**

The purposes of the Nominating and Corporate Governance Committee of the Board shall include (i) identifying and recommending to the Board qualified potential director nominees for election at each of the Company's Annual Shareholders' Meetings; (ii) recommending to the Board directors to serve on each committee of the Board (including recommending a chair of each committee) and (iii) developing and recommending to the Board the Company's corporate governance principles, code of ethics and whistleblower policy.

### **Composition**

The Nominating and Corporate Governance Committee shall be comprised of three or more members, including the chair, all of whom shall meet the independence requirements of the Nasdaq Capital Market ("Nasdaq"). The Board will appoint the members of the Nominating and Corporate Governance Committee, and will select the chair, annually at the Board meeting preceding or following the Annual Shareholders' Meeting, or as necessary to fill vacancies. In the event that the Nominating and Corporate Governance Committee chair is unable to serve as chair for a specific meeting, he or she shall designate one of the Nominating and Corporate Governance Committee members to preside. Members of the Nominating and Corporate Governance Committee may be removed only by the affirmative vote of a majority of the Board.

### **Responsibilities**

The Nominating and Corporate Governance Committee is a standing committee of the Board. The Nominating and Corporate Governance Committee may not delegate any of its responsibilities to management, but may delegate any of its responsibilities to subcommittees consisting solely of two or more members of the Nominating and Corporate Governance Committee. The Nominating and Corporate Governance Committee believes the policies and procedures by which it carries out its responsibilities should remain flexible, to best react to changing conditions and to be in the best position to ensure to the Board and shareholders of the Company that the Company's governance principles, procedures and practices continue to assist the Board and the Company's management to effectively and efficiently promote the best interests of the Company's shareholders. In carrying out its responsibilities, the Nominating and Corporate Governance Committee will:

### **Board Candidates and Nominees**

- Establish and communicate to shareholders a method for shareholders to recommend potential director nominees for the Nominating and Corporate Governance Committee's consideration.
- Develop criteria for selection of director nominees, including criteria regarding, among other things, diversity, experience, personal integrity, skill set, availability and the ability to act on behalf of shareholders, which criteria shall be presented to the Board for approval.
- On an annual basis, assess the effectiveness of the criteria, including diversity, for selection of director nominees.
- Conduct appropriate inquiries into the backgrounds and qualifications of potential director nominees.
- Identify and recommend to the Board qualified potential director nominees who bring knowledge, experience and expertise that would strengthen the Board, whether for the slate of director's nominees to be proposed by the Board to the shareholders or any director nominees to be elected by the Board to fill interim director vacancies.

## **Board and Committees**

- Plan for continuity on the Board as directors are scheduled or expected to retire from the Board.
- Review and recommend to the Board an appropriate course of action with respect to or upon the resignation, retirement, death, disability or removal of any director, or an increase in the size of the Board, including whether a new director should be appointed by the Board prior to the Company's next Annual Shareholders' Meeting and the class that such director should be appointed to.
- From time to time as necessary or appropriate, review and recommend to the Board changes to the size of the Board and its committees.
- From time to time as necessary or appropriate, review and recommend to the Board changes to policy matters pertaining to the roles, responsibilities, independence, retirement age, term limits and removal of directors.
- Oversee management's establishment of and, from time to time as necessary or appropriate, review the effectiveness of the Company's new director orientation program and continuing director education program.
- From time to time as necessary or appropriate, review all Board committees and their charters and, as necessary, recommend to the Board changes in the committee charters or the responsibilities or number of committees.
- From time to time as necessary or appropriate, recommend that the Board establish a new or special ad hoc committee of the Board that may be necessary to properly address ethical, legal or other matters that may arise.
- On an annual basis, determine and propose to the Board which directors should serve as Chair of the Board, Lead Director (if any) and as members and chairs of the Board committees.
  - In making its determinations, the Nominating and Corporate Governance Committee should consider (a) balancing the benefits derived from continuity against the benefits derived from the diversity of experience and viewpoints that may result from the rotation of committee members and chairs; (b) subject matter expertise; (c) applicable legal or other requirements; (d) tenure; (e) the desires of individual members of the Board; (f) as applicable, the independence standards applicable to the members of such committees; (g) whether at least one of the members of the Audit and Finance Committee is a "financial expert" as defined by the SEC; (h) the ability of the individual to devote the time and attention to the Company necessary to be effective and (i) such criteria, factors and circumstances as it determines to be appropriate.
- From time to time as necessary or appropriate, review the qualifications and performance of any members of the Board. On an annual basis, consider whether to recommend for re-election each incumbent director who is standing for re-election at the Company's next Annual Shareholders Meeting.
- On an annual basis, conduct an assessment of the Board's performance during the previous year. In addition, from time to time, the Board may conduct a similar assessment. The purpose of these assessments is to increase the effectiveness of the Board and its members. In conducting such assessments, the Nominating and Corporate Governance Committee and the Board shall consider such criteria, factors and circumstances as they determine to be appropriate.
- On an annual basis, the Board will conduct an assessment of the Nominating and Corporate Governance Committee's performance during the previous year. In addition, from time to time as it deems necessary or appropriate, the Nominating and Corporate Governance Committee may conduct a similar self-assessment. The purpose of these assessments is to increase the effectiveness of the Nominating and Corporate Governance Committee and its members. Compliance with the responsibilities listed in this Charter shall form the principal criteria for such assessments, as well as such other factors and circumstances as are determined appropriate by the Nominating and Corporate Governance Committee or the Board.

## **Governance Principles**

- Develop and recommend to the Board a set of governance principles. Such governance principles shall address at least the following subjects: director qualification standards; director responsibilities; director access to management and, as necessary and appropriate, independent advisors; director compensation; director orientation and continuing education; management succession; and annual performance evaluation of the Board.
- At least annually, review such governance principles, procedures and practices and take such actions as the Nominating and Corporate Governance Committee deems necessary or appropriate.
- Review and make recommendations to the Board regarding shareholders' proposals that relate to corporate governance.

## **Code of Conduct**

- Develop and recommend to the Board a Code of Conduct that complies with Nasdaq standards and SEC rules. Such Code of Conduct shall address at least the following subjects: conflicts of interest; corporate opportunities; confidentiality; fair dealing; compliance with laws, rules and regulations (including insider trading laws); encouraging the reporting of any illegal or unethical behavior; and such issues related to the Company's senior financial officers as required by SEC rules.
- At least annually, review the Code of Conduct and take such actions as the Nominating and Corporate Governance Committee deems necessary or appropriate.

## **General**

- From time to time as necessary or appropriate, select and retain independent counsel or other advisors, including a search firm to help identify new potential director nominees, to provide independent advice to the Nominating and Corporate Governance Committee. The Nominating and Corporate Governance Committee shall have the sole authority to retain (on terms established solely by the Nominating and Corporate Governance Committee), terminate and approve the fees of any such counsel and advisors. The Nominating and Corporate Governance Committee may meet with any such counsel or advisors without management present. The Company will bear the cost of such counsel and advisors.
- Consider and approve or disapprove all transactions involving the Company and any director, executive officer, senior financial officer or any related party and other questions of actual and potential conflicts of interest or appearances of impropriety of or involving the Company's directors, executive officers or senior financial officers or any related party as they may arise and, when determined necessary or appropriate, to issue to a director, executive officer or senior financial officer instructions on how to conduct himself/herself in such matters so as to ensure that the best interests of the Company are protected.
- In considering such matters, the Nominating and Corporate Governance Committee should consider, among other factors or circumstances, whether or not the relationship or transaction is on terms and conditions not materially less favorable to the Company than could be obtained from an independent third party (including obtaining independent support for such conclusion); the reasons for and the benefits obtainable by the Company from such relationship or transaction; the impact of such relationship or transaction on the director's or officer's ability to continue to serve the best interests of the Company; and anticipated shareholder reaction to such relationship or transaction. The Nominating and Corporate Governance Committee shall ensure that all approved related party transactions or other actual and potential conflicts of interest or appearances of impropriety, to the extent determined material, are properly disclosed to the Company's shareholders in accordance with applicable requirements.
- From time to time as necessary or appropriate, consult with the Company's general counsel (if any) and outside legal counsel, if determined necessary or appropriate, with respect to the terms and conditions of the Company's Articles of Incorporation and Bylaws as they relate to corporate governance matters and take such actions as the Nominating and Corporate Governance Committee deems necessary or appropriate, subject to Board and shareholder approval, if applicable, in accordance with the Company's Bylaws and applicable law.
- The Nominating and Corporate Governance Committee shall maintain minutes of meetings and activities of the Nominating and Corporate Governance Committee. The Nominating and Corporate Governance Committee shall promptly make available the minutes of all meetings of the Nominating and Corporate Governance Committee to the Board and report the Nominating and Corporate Governance Committee's activities to the Board at the Board's next meeting following each Nominating and Corporate Governance Committee meeting so that the Board is kept fully informed of the Nominating and Corporate Governance Committee's activities on a current basis.
- From time to time as necessary or appropriate, conduct such reviews, investigations and surveys and take such action as the Nominating and Corporate Governance Committee may consider necessary or appropriate in the exercise of its duties and responsibilities.

## **Meetings**

The Nominating and Corporate Governance Committee shall meet not less than twice per year, including at least once per year in executive session without the Chief Executive Officer. A simple majority of the Nominating and Corporate Governance Committee shall constitute a quorum for the transaction of business.