

# **MORTGAGEIT HOLDINGS, INC.**

## **AUDIT COMMITTEE CHARTER**

### **General**

This Audit Committee Charter was adopted by the Board of Directors (the "Board") of MortgageIT Holdings, Inc. (the "Company") on June 11, 2004.

This Charter is intended as a component of the flexible governance framework within which the Board, assisted by its committees, directs the affairs of the Company. While it should be interpreted in the context of all applicable laws, regulations and listing requirements, as well as in the context of the Company's Articles of Incorporation and Bylaws, it is not intended to establish by its own force any legally binding obligations.

### **Mission**

The Audit Committee shall represent and assist the Board of Directors with its oversight responsibility relating to: (a) the integrity of the Company's financial statements and financial reporting process, and the Company's systems of internal accounting and financial controls, (b) the Company's compliance with legal and regulatory requirements including the Company's disclosure controls and procedures, (c) the independent auditor's qualifications, independence and performance, and (d) the performance of the Company's internal audit function. The report of the Committee referenced by the rules of the Securities and Exchange Commission shall be included in the Company's annual proxy statement.

The Committee's role is one of oversight. The Company's management is responsible for preparing the Company's financial statements and the independent auditors are responsible for auditing those financial statements. The Committee recognizes that Company management, including the internal audit staff and the independent auditors, have more time, knowledge and detailed information about the Company than do Committee members. Consequently, in carrying out its oversight responsibilities, the Committee is not providing any expert or special assurance as to the Company's financial statements or any professional certification as to the independent auditor's work.

The Committee has the power to obtain the advice and assistance, as appropriate, of independent counsel and other advisors as necessary to fulfill the responsibilities of the Audit Committee, and receive appropriate funding from the Company, as determined by the Audit Committee, for the payment of compensation to any such advisors. The Committee shall have the sole authority to retain, compensate, direct, oversee and terminate counsel, independent auditors and other advisors hired to assist the Committee, who shall be accountable ultimately to the Committee.

### **Membership**

The Audit Committee shall consist of three or more directors, all of whom in the judgment of the Board of Directors shall meet the independence, experience and expertise requirements under the New York Stock Exchange (the "NYSE") corporate governance rules as in effect from time to time and all other laws, rules and regulations governing director independence. Each member shall meet the financial literacy requirements of the NYSE, which in the judgment of the Board of Directors means such person shall have the ability to read and understand the Company's basic financial statements, or shall at the time of appointment undertake training for that purpose. At least one member of the Audit Committee shall in the judgment of the Board of Directors be an audit committee financial expert in accordance with the

rules and regulations of the Securities and Exchange Commission, and at least one member (who may also serve as the audit committee financial expert) shall in the judgment of the Board of Directors have accounting or related financial management expertise in accordance with NYSE corporate governance rules.

No member of the Committee may serve on the audit committee of more than three public companies, including this Committee, unless the Board has determined that such simultaneous service would not impair the ability of such member to effectively serve on this Committee. To the extent applicable, such Board determination shall be disclosed in the Company's annual proxy statement. The members of the Committee and the Committee Chair shall be appointed by, and may be removed by, the Board on the recommendation of the Nomination and Corporate Governance Committee. Committee membership may be rotated periodically, and the Committee Chair may be rotated periodically, at the recommendation of the Nomination and Corporate Governance Committee.

### **Duties and Responsibilities**

The following responsibilities are set forth as a guide for fulfilling the Committee's purposes, with the understanding that the Committee's activities may diverge as appropriate given the circumstances. The Committee is authorized to carry out these activities and other actions reasonably related to the Committee's purposes or assigned by the Board from time to time. The Committee shall have the following duties and responsibilities:

#### *Supervise the Independent Audit*

- Select and retain (subject to approval by the Company's stockholders), evaluate and terminate when appropriate, the independent auditor, who shall report directly to the Committee, set the independent auditor's compensation, and oversee the work of the independent auditor.
- Review and approve the terms of the independent auditor's retention, engagement and scope of the annual audit, and pre-approve any audit-related and permitted non-audit services (including the fees and terms thereof) to be performed by the independent auditor.
- At least annually, receive and review: (a) a report by the independent auditor describing the independent auditor's internal quality-control procedures and any material issues raised by the most recent internal quality-control review, peer review or Public Company Accounting Oversight Board (PCAOB) review, of the independent auditing firm, or by any inquiry or investigation by governmental or professional authorities, within the preceding five years, respecting one or more independent audits carried out by the firm, and any steps taken to deal with any such issues; and (b) other required reports from the independent auditor.
- At least annually, consider the independence of the independent auditor, including whether the provision by the independent auditor of permitted non-audit services is compatible with independence, and obtain and review a report from the independent auditor describing all relationships between the auditor and the Company.
- At least annually, consider whether, in addition to assuring the regular rotation of the lead audit partner as required by law, in the interest of assuring continuing

independence of the independent auditor, the Company should periodically rotate its independent auditor.

- Establish policies for the hiring of employees and former employees of the outside auditor.
- Review and discuss with management, the independent auditor and the internal auditor: (a) any significant findings during the year, including the status of previous audit recommendations; (b) any accounting adjustments that were noted or proposed by the auditor but were “passed” (as immaterial or otherwise) or any other audit problems or difficulties encountered in the course of the audit work; (c) any restrictions on the scope of activities or access to required information; (d) any changes required in the scope of the audit plan; (e) the audit budget and staffing; and (f) the coordination of audit efforts in order to monitor completeness of coverage, reduction of redundant efforts, and the effective use of audit resources.
- Review and resolve any disagreements between management and the independent auditor concerning financial reporting, or relating to any audit report or other audit, review or attest services provided by the independent auditor.

*Oversee Internal Audit, Internal Controls & Risk Management*

- Review, at least annually, the scope and results of the internal audit program, procedures for implementing accepted recommendations made by the independent auditor, and any significant matters contained in reports derived from the internal audit program.
- Review with the independent auditor, the Company's internal audit program, and management: (a) the adequacy and effectiveness of the systems of internal controls (including any significant deficiencies and significant changes in internal controls reported to the Audit Committee by the independent auditor or management), accounting practices, and disclosure controls and procedures including whether such controls and procedures are designed to provide reasonable assurance that transactions entered into by the Company are properly authorized, assets are safeguarded from unauthorized or improper use, and transactions by the Company are properly recorded and reported; (b) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls; and (c) current accounting trends and developments, and take such action with respect thereto as may be deemed appropriate.
- Review and discuss with management and the independent auditor any significant risks or exposures and assess the steps management has taken to minimize such risks; and discuss with management and the independent auditor, and oversee the Company's underlying policies with respect to, risk assessment and risk management.
- Establish and oversee procedures for the confidential and anonymous receipt, retention and treatment of complaints regarding the Company's accounting, internal controls and auditing matters, as well as for the confidential, anonymous submissions by Company employees of concerns regarding questionable accounting or auditing matters.

- Review and recommend the appointment, reassignment, replacement, compensation or dismissal of the Chief Financial Officer and head of internal audit.

*Oversee Financial Reporting*

- Review and discuss with management and the independent auditor: (a) all critical accounting policies and practices used by the Company; (b) any significant changes in Company accounting policies; (c) any material alternative accounting treatments pursuant to generally accepted accounting principles (“GAAP”) that have been discussed with management, including the ramifications of the use of the alternative treatments and the treatment preferred by the accounting firm; and (d) any accounting and financial reporting proposals that may have a significant impact on the Company's financial reports.
- Review and discuss with the independent auditor the matters required to be discussed with the independent auditor by: (a) Statement of Auditing Standards No.61, including the auditor's responsibility under generally accepted auditing standards, the significant accounting policies used by the Company, accounting estimates used by the Company and the process used by management in formulating them, any consultation with other accountants and any major issues discussed with management prior to its retention; (b) Statement of Auditing Standards No. 90, including whether Company accounting principles as applied are conservative, moderate, or aggressive from the perspective of income, asset, and liability recognition, and whether or not those principles reflect common or minority practices; and (c) Statement of Auditing Standards No. 100, including the review of the interim financial information of the Company and any material modifications that need to be made to the interim financial information for it to conform with GAAP.
- Review and discuss with management and the independent auditor any material financial or non-financial arrangements that do not appear on the financial statements of the Company.
- Review and discuss with the independent auditor: (a) any accounting adjustments that were noted or proposed by the auditors but were "passed" (as immaterial or otherwise); (b) any communications between the audit team and the audit firm's national office respecting auditing or accounting issues presented by the engagement; and (c) any "management" or "internal control" letter issued, or proposed to be issued, by the independent auditors to the Company or any other material written communications between the accounting firm and management, such as any management letter or schedule of “unadjusted differences.”
- Review with management and the independent auditor the annual and quarterly financial statements of the Company, including: (a) the Company's disclosures under “Management's Discussion and Analysis of Financial Condition and Results of Operations”; (b) any material changes in accounting principles or practices used in preparing the financial statements prior to the filing of a report on Form 10-K or 10-Q with the Securities and Exchange Commission; (c) with respect to the independent auditor's annual audit report and certification, before release of the annual audited financial statements, meet with the independent auditor without any management

member present to discuss the adequacy of the Company's system of internal accounting and financial controls, the appropriateness of the accounting principles used to and judgments made in the preparation of the Company's audited financial statements, and the quality of the Company's financial reports; and (d) recommend to the Board of Directors whether the financial statements should be included in the annual report on Form 10-K

- Review **[earnings press releases, as well as]** Company policies with respect to earnings press releases, financial information and earnings guidance (including non-GAAP financial measures) provided to analysts and rating agencies.
- Review: (a) the status of compliance with laws, regulations, and internal procedures; and (b) the scope and status of systems designed to promote Company compliance with laws, regulations and internal procedures, through receiving reports from management, legal counsel and third parties as determined by the Audit Committee.

#### *Oversee Legal & Ethical Compliance*

- Review periodically with the General Counsel: (a) legal and regulatory matters that may have a material impact on the Company's financial statements; and (b) the scope and effectiveness of compliance policies and programs.
- Review and address conflicts of interest of directors and executive officers.
- Review, discuss with management and the independent auditor, and approve any transactions or courses of dealing with related parties (*e.g.*, including significant stockholders of the Company, directors, corporate officers or other members of senior management or their family members) that are significant in size or involve terms or other aspects that differ from those that would likely be negotiated with independent parties.

#### *Report & Self-Evaluate*

- Oversee the preparation and approve all reports required by the Committee, including the report for inclusion in the Company's annual proxy statement, stating whether the Committee: (a) has reviewed and discussed the audited financial statements with management; (b) has discussed with the independent auditors the matters required to be discussed by SAS Nos. 61 and 90; (c) has received the written disclosure and letter from the independent auditors (describing their relationships with the Company) and has discussed with them their independence; and (d) based on the review and discussions referred to above, the members of the Committee recommended to the Board that the audited financials be included in the Company's Annual Report on Form 10-K for filing with the SEC.
- report regularly to the Board on Committee findings and recommendations (including on any issues that arise with respect to the quality or integrity of the Company's financial statements, the Company's compliance with legal or regulatory requirements, the performance and independence of the independent auditors or the performance of the internal audit function) and any other matters the Committee deems appropriate or the Board requests, and maintain minutes or other records of Committee meetings and activities.

- Conduct an annual performance evaluation of the Audit Committee and annually evaluate the adequacy of its charter and recommend to the Board amendments as the Committee deems appropriate.

### **Meetings**

The Audit Committee shall meet on a regularly-scheduled basis at least four times each year and at such other times as it deems necessary to fulfill its responsibilities. The Audit Committee shall periodically meet with management, the internal auditor and the independent auditor in separate executive sessions to provide the opportunity for full and frank discussion. The Audit Committee shall report regularly to the Board of Directors with respect to its activities and make recommendations to the Board of Directors as appropriate.