

NeoPharm, Inc.

Amended and Restated

Audit Committee Charter

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Purpose

The primary purpose of the Audit Committee (the “Committee”) is to oversee the accounting and financial reporting processes of NeoPharm, Inc. (the “Company”) and the internal and external audit processes. The Committee also assists the Board of Directors of the Company in fulfilling its oversight responsibilities by reviewing the financial information which will be provided to shareholders and others and the systems of internal controls which management and the Board of Directors have established.

In fulfilling its purpose, it is the responsibility of the Committee to provide an open avenue of communication between the Board of Directors, management, the internal auditors and the independent auditors. The Committee is the Board’s principal agent in ensuring the integrity of management and the adequacy of disclosure to shareholders. While the opportunity for the independent auditors to meet with the entire Board of Directors as needed is not to be restricted, the independent auditors are ultimately accountable to the Committee, as representatives of the Company’s shareholders. The Committee shall have the sole authority to determine funding for, select, evaluate, and, where appropriate, replace the independent auditors. The Committee oversees the independent auditors, including their independence and objectivity.

Organization

- ◆ Members of the Committee shall be appointed by the Board of Directors, upon the recommendation of the Corporate Governance Committee. The Board of Directors may remove members of the Committee, with or without cause.
- ◆ The Committee shall be composed of at least three, but not more than five, Directors, all of whom shall meet the independence requirements of The Nasdaq Stock Market, Inc. (“Nasdaq”), applicable laws, and the rules and regulations of the Securities and Exchange Commission (the “SEC”), as in effect from time to time.
- ◆ Each member of the Committee must meet all financial knowledge and experience qualifications required under rules promulgated by Nasdaq, the SEC or any other governing body, as in effect from time to time. In addition, at least one member of the Committee must have accounting or related financial management expertise, as the Board of Directors interprets such qualification in its business judgment. Unless otherwise determined by the Board of Directors (in which case disclosure of such determination shall be made in the Company’s annual report filed with the SEC), at least one member of the Committee shall be an “audit committee financial expert” (as defined by the applicable SEC rules).
- ◆ The Board shall appoint one of the members of the Committee as the Chair. It is the responsibility of the Chair to schedule all meetings of the Committee, provide the Committee with a written agenda for all meetings and report activities of the Committee to the Board of Directors.

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- ◆ No member of the Committee may receive, directly or indirectly, any consulting, advisory or other compensatory fee from the Company or any of its subsidiaries, other than fees paid in his or her capacity as a member of the Board of Directors or a committee of the Board.

The Committee shall discharge its responsibilities, and shall assess the information provided by the Company's management and the independent auditor, in accordance with its business judgment. Management is responsible for the preparation, presentation, and integrity of the Company's financial statements and for the appropriateness of the accounting principles and reporting policies that are used by the Company. The independent auditors are responsible for auditing the Company's financial statements and for reviewing the Company's unaudited interim financial statements. The authority and responsibilities set forth in this Charter do not reflect or create any duty or obligation of the Committee to plan or conduct any audit, to determine or certify that the Company's financial statements are complete, accurate, fairly presented, or in accordance with generally accepted accounting principles or applicable law, or to guarantee the independent auditor's report.

Procedures and Administration

The Committee shall:

- ◆ Have the power to conduct or authorize investigations into any matters within the Committee's scope of responsibilities, as it shall deem appropriate. The Committee shall have unrestricted access to members of management and all information relevant to its responsibilities.
- ◆ Meet at least quarterly, and may hold additional meetings in person or telephonically as circumstances require, in the discretion of the Chair of the Committee. The Committee may ask members of management or others to attend the meetings and provide pertinent information as necessary. Prior to each meeting, the Chair of the Committee may communicate with the independent auditors to review the agenda and solicit input on any additional topics that should be covered.
- ◆ Report regularly to the Board of Directors, and shall make such recommendations to the Board of Directors as the Committee may deem appropriate.
- ◆ At least annually, review the Committee's charter and recommend any proposed change to the Board of Directors for approval.
- ◆ Meet with the independent auditors and management in separate executive sessions to discuss any matters that the Committee or these groups believe should be discussed privately with the Committee.

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- ◆ Engage, without further action by the Board of Directors, such independent legal, accounting and other advisors as it deems necessary or appropriate to carry out its responsibilities and to cause the Company to pay the compensation of such advisors as shall be engaged by the Committee.
- ◆ Cause, without further action by the Board of Directors, the Company to pay the ordinary administrative expenses of the Committee that are necessary or appropriate in carrying out its duties.
- ◆ Perform such other functions as shall be assigned by law, the Company's charter or bylaws, or the Board of Directors.
- ◆ At least annually, evaluate its own performance.

Internal Controls and Risk Assessment

The Committee shall:

- ◆ Review and evaluate the effectiveness of the Company's process for assessing significant risks or exposures and the steps management has taken to minimize such risks to the Company.
- ◆ Consider and review with management and the independent accountants:
 - The effectiveness of or weaknesses in the Company's internal controls including computerized information system controls and security, the overall control environment and accounting and financial controls.
 - Any related significant findings and recommendations of the independent accountants and internal auditors together with management's responses thereto, including the timetable for implementation of recommendations to correct weaknesses in internal controls.
- ◆ Discuss with management and the Company's independent public accountants the status and adequacy of management information systems and other information technology, including the significant risks related thereto and major controls over such activities.

Oversight of Independent Auditors

The Committee shall:

- ◆ Be directly responsible for appointing, evaluating, retaining and, when necessary, terminating the engagement of the independent auditor. In its discretion, the Committee may seek shareholder ratification of the independent auditor it appoints.
- ◆ At least annually, assess the independent auditor's independence. In connection with this assessment, the Committee shall obtain and review a report by the independent auditor describing all relationships between the auditor and the Company, including the disclosures required by Independence Standards Board Standard No. 1. The Committee shall

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engage in an active dialogue with the auditor concerning any disclosed relationships or services that might impact the objectivity and independence of the auditor.

- ◆ At least annually, obtain and review a report by the independent auditor describing:
 - the firm's internal quality-control procedures; and
 - any material issues raised by the most recent internal quality-control review, or peer review, of the 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.
- ◆ Be directly responsible for setting the compensation of the independent auditor. In this regard, the Committee is empowered, without further action by the Board of Directors, to cause the Company to pay the compensation of the independent auditor established by the Committee.
- ◆ Review the scope of the independent auditor's audit examination, including their engagement letter, prior to the annual audit of the company's financial statements. Approve in advance the engagement of the independent auditors and their fees for all audit and non-audit services. Adopt specific policies and procedures for such pre-approval, ensuring that they provide sufficient detail so that the Committee's responsibilities are not delegated to management. These policies and procedures may delegate authority to one or more members of the Committee to grant pre-approval, provided that the decision is presented to the Committee at its next scheduled meeting. Review all engagements of the independent auditors at the next scheduled meeting.

The independent auditor shall report directly to the Committee, and the Committee shall be directly responsible for oversight of the work of the independent auditor, including resolution of disagreements between Company management and the independent auditor regarding financial reporting. In connection with its oversight role, the Committee shall, from time to time as appropriate:

- ◆ Receive and consider the reports required to be made by the independent auditor regarding:
 - critical accounting policies and practices;
 - alternative treatments within generally accepted accounting principals for policies and practices related to material items that have been discussed with Company management, including ramifications of the use of such alternative disclosures and treatments, and the treatment preferred by the independent auditor; and
 - other material written communications between the independent auditor and Company management.

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- ◆ Review with the independent auditor:
 - any audit problems or difficulties the independent auditor encountered in the course of the audit work and management's response, including any restrictions on the scope of the independent auditor's activities or on access to requested information and any significant disagreements with management;
 - major issues as to the adequacy of the Company's internal controls and any special audit steps adopted in light of material control deficiencies;
 - analyses prepared by management and/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; and
 - the effect of regulatory and accounting initiatives, as well as off-balance sheet structures, on the financial statements of the Company.

Audited Financial Statements

- ◆ The Committee shall review and discuss with the Company's management and the independent auditor the Company's audited financial statements, including the Company's disclosures under "Management's Discussion and Analysis of Financial Condition and Results of Operations," and the matters about which Statement on Auditing Standards No. 61 (Codification of Statements on Auditing Standards, AU §380) requires discussion.
- ◆ The Committee shall consider whether it will recommend to the Board of Director that the Company's audited financial statements be included in the Company's Annual Report on Form 10-K.
- ◆ The Committee shall prepare an annual Committee report for inclusion where necessary in the proxy statement of the Company relating to its annual meeting of shareholders.

Review of Other Financial Disclosures

- ◆ The Committee shall direct the independent auditor to use its best efforts to perform all reviews of interim financial information prior to disclosure by the Company of such information and to discuss promptly with the Committee and the Chief Financial Officer of the Company any matters identified in connection with the auditor's review of interim financial information which are required to be discussed by applicable auditing standards. The Committee shall direct management to advise the Committee in the event that the Company proposes to disclose interim financial information prior to completion of the independent auditor's review of interim financial information.
- ◆ The Committee shall discuss generally the types of information to be disclosed in the Company's earnings press releases, as well as in financial information and earnings guidance provided to analysts, rating agencies and others.

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- ◆ The Committee shall discuss with the Company's management and independent auditors the Company's quarterly financial statements, including the Company's disclosures under "Management's Discussion and Analysis of Financial Condition and Results of Operation."

Controls and Procedures

- ◆ The Committee shall coordinate the Board of Directors' oversight of the Company's internal control over financial reporting, disclosure controls and procedures. The Committee shall receive and review the reports of the CEO and CFO required by Rule 13a-14 of the Exchange Act.
- ◆ The Committee shall coordinate the Board of Directors' oversight of the performance of the Company's internal audit function.
- ◆ The Committee shall discuss the Company's policies with respect to risk assessment and risk management, including guidelines and policies to govern the process by which the Company's exposure to risk is handled.
- ◆ The Committee shall establish policies regarding the hiring of employees or former employees of the Company's independent auditors.
- ◆ The Committee shall have such other duties as may be delegated from time to time by the Board of Directors.

Compliance with Laws and Regulations

- ◆ The Committee shall ascertain whether the Company has an effective process for determining risks and exposures from asserted and unasserted litigation and claims and from noncompliance with laws and regulations.
- ◆ It shall review with the Company's general counsel and others any legal, tax or regulatory matters that may have a material impact on company operations and the financial statements, related company compliance policies, and programs and reports received from regulators.

Other Committee Activities

- ◆ The Committee shall review and assess the Company's processes for assuring that it conducts its business in an ethical fashion. The Committee's review shall include, but not be limited to, monitoring compliance with the Company's Code of Conduct, including compliance with the Foreign Corrupt Practices Act, [the Code of Ethics for the CEO and Financial Officers,] and policies and procedures with respect to officers' expense accounts and perquisites, including their use of corporate assets.
- ◆ The Committee shall establish procedures for the receipt, retention and treatment of complaints received by the Company regarding the company's accounting, internal accounting controls and auditing matters and for the

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confidential, anonymous submission by employees of the Company of concerns relating to questionable accounting or auditing matters.

- ◆ The Committee shall review any inquiries related to accounting or financial reporting matters received from the SEC or other agencies, and management's response thereto and shall ensure that any complaints received by the Company regarding its accounting, internal control, or auditing matters are addressed.

Disclosure

- ◆ The Company shall disclose in the Company's annual proxy whether Committee members are independent. Further, the proxy will include disclosure that the Committee is governed by a charter and a copy of the Charter shall be disclosed in the proxy at least once every three years. Additionally, the Committee shall prepare reports to shareholders as required by the SEC's proxy rules to be included in the Company's annual proxy statement.

Limitation

- ◆ Nothing in this Charter is intended to alter in any way the standard of conduct that applies to any of the Directors of the Company under the Delaware General Corporation Law, as from time to time amended, and this Charter does not impose, nor shall it be interpreted to impose, any duty on any Director greater than, or in addition to, the duties or standard established by the Delaware General Corporation Law.