

# ACA CAPITAL HOLDINGS, INC.

## AUDIT AND INVESTMENT COMMITTEE CHARTER

### **Purpose**

The general purpose of the Audit and Investment Committee (the “Committee”) of the Board of Directors (the “Board”) of ACA Capital Holdings, Inc. (the “Company”) is to oversee the accounting and financial statements of the Company and audits of the Company’s financial statements. The Committee shall (a) be directly responsible for the appointment, compensation and oversight of the work of any registered public accounting firm engaged by the Company (the “independent auditor”) in connection with the issuance of an audit report or related work, (b) assist Board oversight of (i) the integrity of the Company’s financial statements, (ii) the appropriateness of the Company’s accounting policies and procedures, (iii) the Company’s compliance with legal and regulatory requirements as they relate to the Company’s financial statements, (iv) the independent auditor’s qualifications, independence and performance, (v) the performance of the Company’s internal audit function, and (c) oversee, direct and review the management of the Company’s insurance investment portfolio.

The Committee shall prepare any report or other disclosure required by the rules of the Securities and Exchange Commission (the “SEC”) for inclusion in the Company’s annual proxy statement.

This Charter has been adopted and approved by the Board and may be amended by the Board from time to time in compliance with applicable laws, rules and regulations, including the applicable rules of the SEC and the New York Stock Exchange (collectively, the “Applicable Rules”). The Committee shall review and reassess the adequacy of this Charter annually and recommend any proposed changes to the Board for approval. The Committee shall annually review its own performance and report the results of such review to the Board. To the extent required by the Applicable Rules, a copy of this Charter will be attached as an appendix to the Company’s annual proxy statement at least once every three years and included on the Company’s website.

### **Committee Membership**

The Committee shall be composed of no fewer than three members of the Board, each of whom shall meet the independence and experience requirements set forth in the Applicable Rules.

Each Committee member shall be financially literate as required by the Applicable Rules or shall become financially literate within a reasonable time after his or her appointment to the Committee. At least one Committee member must be a financial expert and must have accounting or related financial management expertise each as defined by the Applicable Rules.

If a member serves on the audit committee of more than two other public companies, the member must so inform the Committee; the Committee shall recommend to the Board for consideration, and the Board shall determine, whether such simultaneous service would impair the ability of such member to effectively serve on the Committee.

The members of the Committee shall be appointed by the Board. One member of the Committee shall be designated chairperson of the Committee. Any vacancy of the Committee shall be filled

by a majority vote of the Board at the next meeting of the Board following the occurrence of the vacancy. Members may be removed at any time upon the determination of the Board.

### **Procedure and Meetings**

The Committee may create its own rules of procedure, which shall be consistent with the Bylaws of the Company and this Charter. The Committee shall meet as provided by any rules it may adopt and as often as it deems appropriate, but not less than once quarterly. The Committee may hold special meetings as circumstances require. Meetings of the Committee shall be called by the chairperson of the Committee. The chairperson will preside at each meeting of the Committee and, in consultation with the other members of the Committee, set the agenda of items to be addressed at each meeting. A majority of the members of the Committee shall constitute a quorum for the transaction of business. The act of a majority of the Committee members present at a meeting at which a quorum is present shall be the act of the Committee.

Committee members may attend meetings in person, by conference call or through other means by which each member may hear and be heard by each other member, and the Committee may also act by unanimous written consent. At the discretion of the Committee, other members of the Board and any officer or employee of the Company may be invited to attend and participate in meetings of the Committee. Minutes shall be kept for each meeting of the Committee. The chairperson shall be responsible for reporting to the Board at its next regularly scheduled meeting following a meeting of the Committee.

### **Committee Powers, Authority, Duties and Responsibilities**

In furtherance of its responsibilities, the Committee believes its policies and procedures should remain flexible in order to best react to changing conditions and to ensure to the Board and the stockholders that the corporate accounting and reporting practices of the Company are in accordance with all applicable legal and regulatory requirements.

In carrying out these responsibilities and duties, the Committee shall:

1. Be directly responsible for (a) the appointment, evaluation, compensation and oversight of the work of the independent auditor, who shall report directly to the Committee, and (b) the approval of all audit engagement fees and terms and any audit, audit-related, tax or other services (to the extent permitted under applicable law) with the independent auditor. The Committee shall approve in advance the provision by the independent auditor of all services to be performed by the independent auditor. The Company shall provide for appropriate funding, as determined by the Committee, to compensate the independent auditor for the provision of any approved services.
2. Take appropriate action to oversee the independence of the independent auditor, including:
  - (a) reviewing and evaluating (i) the experience and qualifications of the senior members of the independent auditor team, (ii) the qualifications, performance and independence of the independent auditor, including the review and evaluation of the lead partner of the independent auditor, (iii) whether the auditor's quality controls are adequate, and (iv) whether the provision of non-audit services is in compliance with applicable law and compatible with

- maintaining the auditor's independence, taking into account the opinions of management and the internal auditor;
- (b) pre-approving and reviewing quarterly non-audit services not prohibited by applicable law, and the respective related fees, provided by and to the independent auditor;
  - (c) ensuring its receipt at least annually from the independent auditor, reviewing and discussing with the independent auditor, as appropriate in the Committee's discretion, a formal written report from the independent auditor delineating (i) the independent auditor's internal quality-control procedures, (ii) any material issues raised within the preceding five years by the independent auditor's internal quality-control reviews, by peer reviews of the firm, or by any governmental, professional or other inquiry or investigation relating to any audit conducted by the firm, and any steps taken to deal with such issues, and (iii) (to assess the auditor's independence) all relationships between the independent auditor and the Company;
  - (d) taking appropriate action or recommending to the Board such appropriate action, as necessary, on any disclosed relationships to satisfy itself of the independent auditor's independence;
  - (e) complying with all relevant laws and regulations relative to the independence of the independent auditor, including but not limited to (i) rotation of outside audit personnel and the lead audit partner as required by law and (ii) the performance of services by an outside audit firm when a former employee of that firm currently serves as chief executive officer, chief financial officer, chief accounting officer or in an equivalent position of the Company;
  - (f) establishing or modifying hiring policies relating to the retention by the Company of employees or former employees of the independent auditor; and
  - (g) terminating or replacing the independent auditor, such responsibility being solely that of the Committee.
3. Meet with management, the chief internal auditor, if any, and the independent auditor in separate executive sessions at least quarterly.
4. Review and discuss with management and the independent auditor (and where appropriate the internal auditor, if any) at the completion of the annual and each quarterly examination:
- (a) the Company's annual audited and quarterly financial statements, including (i) the Company's disclosures made under "Management's Discussion and Analysis of Financial Condition and Results of Operations," and, in the case of quarterly financial statements, the results of the independent auditor's reviews of the quarterly financial statements and (ii) any items required to be communicated to the Committee by the independent auditor in accordance with standards established and amended from time to time by the American Institute of Certified Public Accountants;

- (b) major issues regarding accounting principles and financial statement presentations, including any significant changes in the Company's selection or application of accounting principles, and major issues as to the adequacy of the Company's internal control and special audit steps adopted in light of material deficiencies;
  - (c) any analyses or other written communications prepared by management and/or the independent auditor setting forth the significant financial reporting issues and judgments made in connection with the preparation of the financial statements, including analyses of the effects of alternative generally accepted accounting principles ("GAAP") methods on the financial statements;
  - (d) the effect of regulatory and accounting initiatives on the financial statements of the Company (including any SEC investigations or proceedings) and any report or opinion proposed to be rendered in connection therewith;
  - (e) any significant changes required in the independent auditor's audit plan;
  - (f) any material correcting adjustments that have been identified by the independent auditor in accordance with GAAP and applicable laws, rules and regulations;
  - (g) any material off-balance sheet transactions, arrangements, obligations (including contingent obligations), and other relationships of the Company with unconsolidated entities or other persons, that may have a material current or future effect on financial condition, changes in financial condition, results of operations, liquidity, capital expenditures, capital resources, or significant components of revenues or expenses;
  - (h) their assessments of the adequacy of the Company's internal control structure and procedures of the Company for financial reporting and the resolution of any identified material weaknesses in such internal control structure and procedures; and
  - (i) other matters related to the conduct of the audit which are to be communicated to the Committee under generally accepted auditing standards, including under Statement on Auditing Standards No. 61, Communications with Audit Committees.
5. Review with the independent auditor any audit problems or difficulties the auditor may have encountered in the course of the audit work, including (a) any restrictions on the scope of the independent auditor's activities or on access to requested information and (b) any significant disagreements with management. The Committee shall consider discussing with the independent auditors any accounting adjustments that were noted or proposed by the independent auditors but were "passed" (as immaterial or otherwise); any communications between the audit team and the independent auditor's national office with respect to auditing or accounting issues presented by the engagement; and any "management" or "internal control" letter issued, or proposed to be issued, by the audit firm to the Company. The Committee shall have the sole authority to resolve any disagreements between management and the independent auditor.

6. Review the scope and general extent of the independent auditor's annual audit for the current year and other examinations of the Company's financial information and the audit procedures to be utilized.
7. Discuss with the independent auditor the responsibilities, budget and staffing of the Company's internal audit function.
8. Discuss with Company's General Counsel any significant legal, compliance or regulatory matters that may have a material impact on the financial statements, including material notices or inquiries received from government agencies. The Committee shall respond appropriately to any matters reported to the Committee by counsel, including adopting, as necessary, appropriate remedial measures or sanctions, or recommending such action to the Board.
9. Review and discuss the Company's earnings press releases, as well as financial information and earnings guidance, provided to analysts and rating agencies, though this may be done generally (i.e., discussion of the types of information to be disclosed and the type of presentation to be made) and the Committee need not discuss in advance each earnings release or each instance in which the Company may provide earnings guidance.
10. Discuss with management, other internal staff, and/or the independent auditor about the Company's major financial risks and exposures and the steps management has taken to monitor and control such risks and exposures. Also, review, assess and discuss the Company's guidelines and policies that govern the processes for identifying and assessing significant financial risks or exposures and for formulating and implementing steps to monitor and control such financial risks and exposures to the Company.
11. Review the internal audit department of the Company, including the independence and authority of its reporting obligations, the proposed audit plans for the coming year, and the coordination of such plans with the independent auditor. The Committee shall receive as necessary notification of material adverse findings from internal audits and a progress report on the proposed internal audit plan, as appropriate, with explanations for changes from the original plan.
12. Oversee the development by the General Counsel of procedures for (a) the receipt, retention, and treatment of complaints received by the Company regarding accounting, internal accounting controls, or auditing matters and (b) the confidential, anonymous submission by employees of the Company of concerns regarding questionable accounting or auditing matters.
13. Report regularly to the full Board and review 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 that may have a material impact on the financial statements or policies related thereto, the performance and independence of the independent auditor, or the performance of the internal audit function.
14. Review and approve management's recommended insurance investment portfolio financial goals and requirements, including asset allocation ranges, risk tolerance and maturities.

15. Review and approve management's recommended policies and guidelines that direct the investment of the insurance portfolio.
16. Approve the selection of all outside investment managers and other investment professionals, including investment management consultants, investment custodians and such additional specialists as the Investment Committee or management may deem necessary or desirable and approve all investment management contracts, in each case relating to the Company's insurance investment portfolio.
17. Review and evaluate the performance of the insurance investment portfolio and the investment managers and other investment professionals quarterly to assure adherence to policy guidelines and monitor progress toward achieving investment objectives.
18. Approve the termination of investment managers and other investment professionals retained in connection with the Company's insurance investment portfolio.
19. Conduct or authorize investigations into any matters within the Committee's scope of responsibilities.
20. Have full access to all Company's books, records, facilities, and personnel.
21. Obtain, at such times and on such terms as the Committee determines necessary and appropriate in carrying out its duties, and at the Company's expense, advice and assistance from outside legal, accounting and other advisors as it determines necessary to carry out its duties. The Company shall provide for appropriate funding, as determined by the Committee, for payment of compensation to any advisors retained by the Committee under this paragraph.
22. Form, and delegate authority and responsibilities to, subcommittees when it deems appropriate, provided each member of the subcommittee meets the qualifications of the Committee set forth above. Any such subcommittee shall report any actions taken by it to the whole Committee at its next regularly scheduled meeting. The Committee shall periodically review any such delegations and may revoke any such delegation at any time.
22. Perform such other functions as may be required by applicable laws, rules and regulations and the Company's Bylaws, or by the Board.

### **Limitation of the Committee's Role**

The independent auditor and the internal auditing department, if any, shall be ultimately accountable to the Committee, in its capacity as a committee of the Board, and to the full Board. The Committee has the oversight, supervisory and other powers and responsibilities as set forth in this Charter. The Committee may take such actions with respect to such matters as it deems necessary or advisable in fulfilling its duties and the members of the Committee in their judgment may determine the relevance thereof and the attention such items shall receive in any particular context. It is not the duty of the Committee in the first instance to plan or conduct audits, to implement internal controls, or to determine or certify that the Company's financial statements are complete and accurate or are in compliance with GAAP. These matters and tasks are the responsibility of the Company's management, internal auditor, if any, and the independent auditor, and the Committee has the responsibility to oversee these tasks. It is the

responsibility of the Company's management, internal auditor, if any, and/or the independent auditor to bring appropriate matters to the attention of the Committee, and to keep the Committee informed of matters which the Company's management, internal auditor, if any, or the independent auditor believe require attention, guidance, resolution or other actions, the bases therefore and other relevant considerations. The Committee shall take such actions with respect to such matters as it deems necessary or advisable in fulfilling its duties identified above.

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