



# Nominating and Corporate Governance Committee Charter

## 1. Purpose

The purpose of the Nominating and Corporate Governance Committee (the "Governance Committee") of the Board of Directors of the Company (the "Board") is to:

- identify the competencies and skills criteria for Board membership, identify individuals qualified to become Board members, and recommend to the Board director nominees for election at the next annual or special meeting of shareholders at which directors are to be elected or to fill any vacancies or newly created directorships that may occur between such meetings;
- oversee the evaluation of the Board and its committees;
- consider the size, composition and structure of the Board and its committees;
- oversee orientation and continuing education for directors;
- direct the Company's overall approach to corporate governance;
- oversee and set compensation for the Company's directors; and
- develop and recommend to the Board the Corporate Governance Guidelines and Code of Business Conduct and Ethics for the Company.

For the purpose of this charter, "Applicable Rules" means applicable laws, regulations, rules, policy statements or guidelines, stock exchange rules and regulations and rules, regulations and standards of applicable self-regulating organizations, and includes (1) the United States Securities Exchange Act of 1934, as amended (together with the rules and regulations promulgated under that act, the "Exchange Act"), (2) the United States Sarbanes-Oxley Act of 2002 (together with the rules and regulations promulgated under that act, "S Ox"), (3) laws, rules and regulations of the United States Securities and Exchange Commission, (4) the rules and regulations of The Nasdaq Stock Market, Inc. ("Nasdaq"), (5) Canadian provincial and territorial securities laws, rules and regulations, (6) the rules and regulations of the Toronto Stock Exchange ("TSX") and (7) the laws, rules and regulations of the corporate statute under which the Company is existing.

## 2. Membership

The Governance Committee shall consist of at least three members. The Board shall recommend nominees for appointment to the Governance Committee annually and as vacancies or newly created positions occur. Governance Committee members shall be appointed by the Board and may be removed by the Board at any time. The Governance Committee shall recommend to the Board, and the Board shall designate, the Chairman of the Governance Committee. If, at any time, the Board shall determine that the Company is no longer a "controlled company" that is eligible for an exemption from the independence requirements of Nasdaq and any other Applicable Rules, the composition of the Governance Committee shall be adjusted by the Board, as and if necessary, to ensure that the Company remains in compliance with such requirements.

## 3. Responsibilities

In addition to any other responsibilities which may be assigned from time to time by the Board, the Governance Committee is responsible for the following matters.

### a. Board/Committee Nominees

The Governance Committee will examine the size of the Board and recommend to the Board a size that facilitates effective decision making. The Governance Committee shall recommend to the Board criteria for Board and Board committee membership, including, to the extent necessary, as to director independence, and shall recommend individuals for membership on the Company's Board and its committees. In making its recommendations for Board and committee membership, the Committee shall:

- consider the competencies and skills that the Board considers to be necessary for the Board, as a whole, to possess and the competencies and skills that the Board considers each existing director to possess;

- review candidates' qualifications for membership on the Board or a committee of the Board (including making a specific determination as to the independence of each candidate) based on the criteria approved by the Board (and taking into account, if necessary, the enhanced independence, financial literacy and financial expertise standards that may be required under Applicable Rules, for Audit Committee membership purposes);
- in evaluating current directors for re-nomination to the Board or re-appointment to any Board committees, assess the performance of such directors;
- periodically review the composition of the Board and its committees in light of the current challenges and needs of the Board, the Company and each committee, and determine whether it may be appropriate to add or remove individuals after considering issues of judgment, diversity, age, skills, background and experience;
- consider rotation of committee members and committee Chairmen; and
- consider any other factors that are set forth in the Company's Corporate Governance Guidelines or are deemed appropriate by the Governance Committee or the Board.

#### **b. Evaluating the Board and Its Committees**

At least annually, the Governance Committee shall lead the Board in a self evaluation to determine whether it and its committees are functioning effectively, fulfilling their responsibilities and duties as set out in their respective charters and in a manner consistent with the corporate governance guidelines adopted by the Board. The Governance Committee will annually consider the performance, contributions and credentials of individual directors prior to their nomination for re-election to the Board. The Governance Committee shall oversee the evaluation process and report on such process and the results of the evaluations, including any recommendations for proposed changes, to the Board.

The Governance Committee shall periodically review the size and responsibilities of the Board and its committees and recommend any proposed changes to the Board.

#### **c. Director Compensation**

The Governance Committee shall review and approve compensation (including stock option grants and other equity-based compensation) for the Company's directors. In so reviewing and approving director compensation, the Governance Committee shall:

- identify corporate goals and objectives relevant to director compensation;
- evaluate the performance of the Board in light of such goals and objectives and set director compensation based on such evaluation and such other factors as the Governance Committee deems appropriate and in the best interests of the Company (including the cost to the Company of such compensation);
- determine any long-term incentive component of director compensation based on the awards given to directors in past years, the Company's performance, shareholder return and the value of similar incentive awards relative to such targets at comparable companies and such other factors as the Governance Committee deems appropriate and in the best interests of the Company (including the cost to the Company of such compensation);
- evaluate the possibility that directors' independence may be compromised or impaired for Board or committee purposes if director compensation exceeds customary levels, if the Company makes substantial charitable contributions to an organization with which a director is affiliated, or if the Company enters into consulting contracts with (or provides other indirect forms of compensation to) a director (which consulting contracts or other indirect forms of compensation are expressly prohibited for Audit Committee members); and
- consider the demands placed on each director by virtue of Board service and committee membership, attendance at board and committee meetings and additional responsibilities associated with service as chairman of the Board and/or any committee(s) thereof.

#### **d. Corporate Governance Matters**

The Governance Committee shall develop and recommend to the Board the Corporate Governance Guidelines and Code of Business Conduct and Ethics for the Company. At least annually, the Governance Committee shall review and reassess the adequacy of such Corporate Governance Guidelines and Code of Business Conduct and Ethics and recommend any proposed changes to the Board. The Governance Committee shall monitor developments in the area of corporate governance and recommend initiatives that will help the Company maintain the highest standards of corporate governance.

The Governance Committee shall be responsible for any tasks assigned to it in the Company's Corporate Governance Guidelines.

The Governance Committee shall oversee compliance with the Company's Corporate Governance Guidelines and Code of Business Conduct and Ethics and report on such compliance to the Board. The Governance Committee shall also review and consider any requests for waivers of the Company's Corporate Governance Guidelines or Code of Business Conduct and Ethics for the Company's directors, executive officers and other senior financial officers, and shall make a recommendation to the Board with respect to such request for a waiver, and oversee any public disclosure required by Applicable Rules in connection with any such waiver.

The Governance Committee shall develop charters for any new committees established by the Board and review the charters of each existing committee and recommend any amendments to the Board. The Governance Committee shall review potential conflicts of interest involving directors and shall determine whether such director or directors may vote on any issue as to which there may be a conflict. The Governance Committee shall review and recommend the implementation of structures and procedures to facilitate the Board's independence from management and to avoid conflicts of interest.

The Governance Committee shall review all related party transactions and determine whether such transactions are appropriate for the Company to undertake. If so, the Governance Committee is authorized to approve such transactions.

#### **4. Reporting to the Board**

The Governance Committee shall report to the Board periodically. This report shall include a review of any recommendations or issues that arise with respect to Board or committee nominees or membership, Board performance, corporate governance or any other matters that the Governance Committee deems appropriate or is requested to be included by the Board.

At least annually, the Governance Committee shall evaluate its own performance and report to the Board on such evaluation.

The Governance Committee shall periodically, but no less frequently than annually, review and assess the adequacy of this charter and recommend any proposed changes to the Board for approval.

#### **5. Authority and Access to Outside Advisors**

The Governance Committee may retain, at the Company's expense, such independent counsel or other consultants or advisers as it deems necessary, without Board approval at any time and has the sole authority to determine such advisor's fees and other retention terms and to terminate any such advisor, including any search firm assisting the Governance Committee in identifying director candidates and any compensation consultant assisting the Governance Committee in the evaluation of director compensation.

The Governance Committee may delegate its authority to subcommittees or the Chair of the Governance Committee when it deems appropriate and in the best interests of the Company.

#### **6. Procedures**

The Governance Committee shall meet as often as it determines is appropriate to carry out its responsibilities under this charter. The Chair of the Governance Committee, in consultation with the other Governance Committee members, shall determine the frequency and length of the Governance Committee meetings and shall set meeting agendas consistent with this charter.

A majority of the members of the Governance Committee present in person or by means of a conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other shall constitute a quorum.

Any member may be removed and replaced at any time by the Board, and will automatically cease to be a member as soon as the member ceases to meet the qualifications set out above. The Board will fill vacancies on the Governance Committee by appointment from among qualified members of the Board. If a vacancy exists on the Governance Committee, the remaining members will exercise all of its powers so long as a quorum remains in office.

The Governance Committee shall maintain minutes of its meetings and records relating to those meetings.

