

## **GATEWAY, INC. CORPORATE GOVERNANCE GUIDELINES**

These Corporate Governance Guidelines (the Guidelines) have been approved by Gateway's Board of Directors (the Board). Together with the Board Committee charters, the Guidelines provide the framework for corporate governance at Gateway. The Board will review the Guidelines at least annually to incorporate any changes the Board determines appropriate.

### **I. The Role and Responsibilities of the Board**

The Board of Directors is elected by shareholders to advise and oversee management who are responsible for the day-to-day operations and management of Gateway. Gateway Board members are expected to be active and engaged in discharging their responsibilities as directors and to stay informed about Gateway's business and operations. The Board may, as appropriate, delegate designated Board duties to the committees of the Board.

In addition to general oversight responsibilities, specific duties of Gateway's Board include:

- (a) the selection, compensation, and annual evaluation of the performance of the Chief Executive Officer and oversight of CEO succession plans;
- (b) oversight of the selection and compensation of executive officers and oversight of succession plans for key executive positions;
- (c) review of Gateway's financial performance on a regular basis, including strategic assessment and competitive comparisons;
- (d) review and approval, as appropriate, of major financial and business objectives, strategies, plans and actions of Gateway;
- (e) review of the processes in place to ensure the integrity of Gateway's financial and accounting systems and the auditing and accounting principles and practices used to prepare Gateway's financial statements; and
- (f) review and approval, as appropriate, at least annually, of Gateway's long-term strategy and assessment of its strategic, competitive and financial performance, on both an absolute basis and in relation to the performance, practices and policies of its peers and competitors.

## II. Director Qualifications

The Corporate Governance & Nominating Committee establishes the criteria for Board membership, which shall include the criteria set forth below, and recommends candidates for membership on the Board. The full Board shall approve a candidate for Board membership.

- (a) In connection with its recommendations, the Corporate Governance & Nominating Committee shall:
  - (i) review the qualifications of candidates for membership on the Board (including a determination as to a candidate's independence) based on the criteria set forth below;
  - (ii) assess the performance of current directors considered for re-nomination to the Board; and
  - (iii) periodically review the composition of the Board in light of the challenges and Gateway's business strategy and requirements.
- (b) It is the policy of the Board that the criteria for membership on the Board shall include a requirement that members of the Board shall:
  - (i) have had significant experience in commercial, industrial, technology, educational, governmental, charitable, not-for-profit and/or other relevant sectors, such that the Board member can contribute effectively to the stewardship of Gateway;
  - (ii) demonstrate the integrity and honesty necessary to provide sound and prudent guidance to Gateway's strategic direction and operations;
  - (iii) to the extent feasible, reflect diversity, including race and gender;
  - (iv) have the ability and expressed commitment to dedicate sufficient time and resources to perform diligently the duties of Board and Board Committee membership; and
  - (v) with respect to a majority of the members of the Board, meet the standards of independence set forth below.
- (c) The Corporate Governance & Nominating Committee, in consultation with the Chairman of the Board, shall also establish and maintain for future use a current list of qualified candidates for nomination as directors and shall recommend to the Board

nominees to fill newly created or vacant Board seats. Although the Corporate Governance & Nominating Committee does not solicit director nominations, it will consider recommendations sent to the Corporate Secretary at Gateway, Inc., 7565 Irvine Center Drive, Irvine, CA 92618-2930.

### **III. Director Independence**

Gateway's Board shall consist of a majority of independent directors. To be considered independent, a director must meet the independence requirements of the New York Stock Exchange in effect at the time. In accordance with the NYSE listing standards, a person whom the Board determines to have any material relationship with Gateway directly or as a partner, shareholder or officer of an organization that has a material relationship with Gateway, shall be barred from acting as an independent director.

Also barred from acting as an independent director is:

- (a) any person who is, or has been within the last three years, an employee of Gateway and its subsidiaries, or an immediate family member of whom is, or has been within the last three years, an executive officer of Gateway, except that employment as an interim Chairman or CEO does not disqualify a director from being considered independent following that employment;
- (b) any person who is a current partner or employee of an auditor (present or former) of Gateway (or an affiliate) or in the past three years has been, affiliated with or employed by an auditor (present or former) of Gateway (or an affiliate) and personally worked on Gateway's audit;
- (c) any person who during any twelve-month period within the past three years has been part of an interlocking directorship in which an executive officer of Gateway served on the compensation committee of another company that employs such person;
- (d) any director who in the past three years has received more than \$100,000 per year in direct compensation from Gateway, other than for Board service or pursuant to a pension or similar form of deferred compensation; and
- (e) any director who in the past three years is an executive officer or employee of another company that in any single fiscal year makes payments to, or receives payments from, Gateway for property or services in an amount that exceeds the greater of \$1 million or 2% of the other company's consolidated gross revenues in the last

completed fiscal year; provided that, for purposes of this rule, charitable organizations shall be considered a “company” and all payments (other than contributions to tax-exempt organizations) to such charitable organizations shall be considered under this rule.

Directors with immediate family members (other than family members in a non-executive officer position) that are any of the following: (i) a current partner of Gateway’s independent auditors; (ii) a current employee with such audit firm and participates in the firm’s audit, assurance or tax compliance (but not tax planning) practice; or (iii) within the last three years was a partner or employee of such firm and personally worked on Gateway’s audit, shall also be subject to the three-year “cooling-off” provisions for purposes of determining a director’s independence. Immediate family members include spouses, parents, children, siblings, mothers and fathers-in-law, sons and daughters-in-law, brothers and sisters-in-law and anyone (other than employees) who shares such person’s home.

The Board, led by the Corporate Governance & Nominating Committee, shall make an affirmative determination at least annually as to the independence of each director and shall disclose its determination in Gateway’s annual proxy statement. In making the determination regarding a proposed director’s independence, the Board shall consider all relevant facts and circumstances, including the director’s commercial, industrial, banking, consulting, legal, accounting, charitable and familial relationships. In advance of the meeting at which this review occurs, each non-employee director shall provide the Board full information regarding the director’s business and other relationships with Gateway, its affiliates, its senior management and their affiliates to enable the Board to evaluate the director’s independence.

#### **Additional Audit Committee Independence Criteria**

Director’s fees (including equity compensation) are the only compensation which members of the Audit Committee may receive from Gateway. Audit Committee members may not receive any fees for services as a consultant or legal or financial advisor. Disallowed compensation also includes compensation paid to a director’s firm for consulting or advisory services even if the director is not the actual service provider.

#### **IV. Board Size**

Gateway’s Bylaws provide that the Board shall determine the size of the Board. The Board considers 6 to 9 members as an appropriate size, but may consider enlarging or reducing its size if the Board determines that a larger or smaller Board would be more appropriate given the circumstances. The Corporate Governance & Nominating Committee shall consider and recommend to the Board changes in the appropriate size of the Board.

## **V. Selection of Chairman and CEO**

The Board members believe it is important to retain flexibility to allocate the responsibilities of the offices of the Chairman and CEO in any way that is in the best interests of Gateway at the time the determination is made.

## **VI. Board Committees**

The Board shall at all times have an Audit Committee, a Compensation Committee, and a Corporate Governance & Nominating Committee. The Board may establish other committees as it deems appropriate and in the best interests of Gateway. In general, Board members will be members of no more than two committees, unless there are extenuating circumstances or additional committees are created.

Only independent directors may serve on the Audit, Compensation and Corporate Governance and Nominating Committees. Audit and Compensation Committee members are appointed by the Board based on the recommendation of the Corporate Governance & Nominating Committee. Members of the Corporate Governance & Nominating Committee shall be appointed directly by the Board.

Before recommending a director for appointment to a committee, the Corporate Governance & Nominating Committee shall:

- (a) consider each director's particular experience, educational background, qualifications (including a determination as to the independence of the candidate) and preferences;
- (b) assess the director's performance as a committee member if the director is being considered for re-appointment to the committee; and
- (c) periodically review the membership of the committee to evaluate whether it may be appropriate to add or remove individuals in light of the current mix of background and skills as well as the challenges and needs of the committee.

Rotation of committee members will be considered but is not required because the Board believes there are substantial benefits attributable to continuity and experience.

The Audit, Compensation and Corporate Governance & Nominating Committees of the Board each shall have a written charter. The charters shall describe the purpose and responsibilities of the Committee, the procedures for

committee member appointment and removal, committee structure and operations, reporting procedures to the Board, and provide for an annual evaluation of the Committee's performance.

## **VII. Board and Committee Meetings**

The Board will meet at least six times each year in regularly scheduled meetings. In addition to the regularly scheduled meetings, additional meetings may be called upon appropriate notice at any time to address specific matters.

The Chairman of the Board sets the agenda for Board meetings. Board members are encouraged to suggest the inclusion of additional items on an agenda and any member of the Board may request that an item be added to the agenda.

Board members are expected to attend all Board meetings and the meetings of the Committees on which they serve and to prepare themselves for these meetings. Board materials related to agenda items will be provided to Board members sufficiently in advance of Board meetings where necessary to allow the directors to prepare for discussion of the items at the meeting. Directors are expected to attend all Board meetings and the meetings of the committees on which they serve and to prepare themselves for these meetings.

### **Meetings of Non-Management Directors**

At least quarterly, the Board shall meet in regularly scheduled meetings without the participation of management or other employee directors. The non-management directors will address such issues as they deem appropriate during these meetings. So long as Gateway has an independent Chairman of the Board, the Chairman will preside over the meeting. Alternatively, or if there is no independent Chairman, the non-management directors will designate a presiding director for each of the scheduled meetings of non-management directors during the year and the presiding director for each scheduled meeting shall be responsible for establishing an agenda for that meeting. Gateway will publicly disclose on the company's website and in its annual proxy statement the method for selecting the presiding director and the method for interested parties to communicate directly with Gateway's non-management directors.

### **Committee Meetings**

The frequency, length and agenda of meetings of each of the committees are determined by the chair of the committee. Sufficient time to consider the agenda items will be provided. Materials related to agenda items will be provided to the committee members sufficiently in advance of the meeting, if possible, to allow the members to prepare for discussion of the items at the meeting.

### **VIII. Board Compensation**

The Corporate Governance & Nominating Committee shall review and approve compensation for non-employee directors. The Corporate Governance & Nominating Committee shall consider corporate goals and other criteria relevant to director compensation and set director compensation based on evaluation of the performance of the Board in light of these goals and such other criteria as the Corporate Governance & Nominating Committee deems appropriate and in Gateway's best interests.

To further align directors' interests with shareholders, a portion of director compensation shall be equity-based and take into account historical equity-based compensation at Gateway and comparable companies and other relevant criteria.

In setting the non-employee director compensation, the Corporate Governance & Nominating Committee shall consider, among other factors, the possibility that directors' independence may be jeopardized if director compensation and perquisites exceed customary levels, if Gateway makes substantial charitable contributions to an organization with which a director is affiliated, or if Gateway enters into consulting contracts with (or provides other indirect forms of compensation to) a director or an organization with which a director is affiliated.

### **IX. Board Access to Management and Independent Advisors**

Board members shall have full access to Gateway's management and employees and to its outside counsel and auditors. Any meetings that a director wishes to initiate shall be arranged by Gateway's Corporate Secretary at the direction of the director.

The Board and each of its committees are authorized to hire independent legal, financial or other advisors as they may consider necessary without conferring with or obtaining the approval of management.

### **X. Director Orientation and Continuing Education**

New Board members are required to participate in an orientation program for new directors that will include review of relevant materials, meetings with key management and visits to Gateway's headquarters and other facilities as appropriate. Other directors may also attend the orientation program.

On an ongoing basis, directors are offered the opportunity and are encouraged to participate in continuing education programs about Gateway's business as well as seminars and conferences organized by various institutions,

accounting firms, rating agencies or other third parties concerning corporate governance and the role and responsibilities of board members.

The orientation and continuing education programs shall be overseen by the Corporate Governance & Nominating Committee.

#### **XI. Management Evaluation and Succession**

The Compensation Committee shall review and report annually to the Board on Gateway's succession planning, including succession planning in the case of the incapacitation, retirement or departure of the CEO. The CEO shall provide an annual report to the Compensation Committee recommending and evaluating potential successors, along with a review of any development plans recommended for such individuals. Succession planning may be reviewed more frequently by the Board as it deems warranted.

#### **XII. Conflicts of Interest**

If an actual or potential conflict of interest develops because of a change in Gateway's business or a director's circumstances or as provided in Gateway's Code of Ethics, the director should report the matter immediately to the Chairman of the Board and the Chairman of the Audit Committee for evaluation by the Audit Committee and recommendation with respect to any action to be taken. Only the full Board, without participation of the director involved, can waive any conflict of interest.

If a director has a personal interest in a matter before the Board, the director shall disclose the interest to the full Board, shall not participate in the Board's discussion of the matter and shall not vote on the matter.

#### **XIII. Charitable Contributions**

Proposed charitable contributions or pledges of charitable contributions by Gateway during any fiscal year in an aggregate amount of \$10,000 or more to an entity for which a director or a member of his or her immediate family serves as a director, officer, employee or member of such entity's fund-raising organization or committee, shall be approved in advance by the Corporate Governance & Nominating Committee.

On an annual basis, management shall provide the Corporate Governance & Nominating Committee with a report of charitable contributions or pledges made by Gateway during the fiscal year in an aggregate amount of \$10,000 or more to an entity for which a director or executive officer, or a member of his or her immediate family, serves as a director, officer, employee or member of such entity's fund-raising organization or committee.

#### **XIV. Changes in Primary Employment**

A director who retires from or substantially changes his or her principal occupation or business association from the position he or she held when originally invited to join the Board should notify the Chairman of the Corporate Governance & Nominating Committee and volunteer to resign from the Board. The Committee will review whether Board membership continues to be appropriate in light of the director's new circumstances, and will recommend to the Board as to the appropriate action, if any, to be taken.

#### **XV. Simultaneous Service on Other Company Boards**

It is the policy of the Board that every director must notify the Corporate Governance & Nominating Committee before accepting any invitation to serve on another corporate board or with a government or advisory group. The Corporate Governance & Nominating Committee shall evaluate the continued appropriateness of Board membership under the new circumstances and make a recommendation to the Board as to any action to be taken with respect to continued Board membership. The Board will determine if simultaneous service by any director on more than three audit committees of public companies will impair such director's service.

#### **XVI. Director Equity Ownership Guidelines**

The Board believes that Directors should hold a meaningful equity ownership position in Gateway. Directors are required to hold Gateway common stock equal to the lesser of (a) the number of shares having a value of three (3) times the annual cash retainer, and (b) the number of unrestricted shares granted to the director during the preceding six (6) years. The Corporate Governance & Nominating Committee shall consider a director's compliance with this requirement when it considers the re-nomination of the director to the Board.

#### **XVII. Executive Officer Equity Ownership Guidelines**

The Corporate Governance & Nominating Committee periodically assesses the appropriateness of equity ownership guidelines for executive officers, including whether and to what extent executive officers should be restricted from selling stock acquired through equity compensation. The Committee has established that, absent unusual personal circumstances, the CEO and each Senior Vice President should retain 30 percent of all after tax profit shares from stock options exercised and stock grants (restricted or otherwise) for at least 3 years (from exercise or vesting date) unless the value of his or her ownership in Gateway securities exceeds 5 times the base salary for the CEO or 2.5 times the base salary for Senior Vice Presidents. The Governance & Nominating Committee will review compliance with these guidelines annually.

### **XVIII. Retirement Age**

The current mandatory retirement age for directors is 75. No director who is or would be over the age of 75 at the expiration of his or her current term may be nominated to a new term, unless the Board waives the mandatory retirement age for a specific director in exceptional circumstances.

### **XIX. Evaluation of Individual Director Performance**

The Corporate Governance & Nominating Committee shall assess, on the basis of established criteria, the performance of each individual director standing for re-election at the next annual meeting. The established criteria shall address each director's core competencies, independence, level of commitment and length of service on the Board.

The Corporate Governance & Nominating Committee shall consider not only an individual's performance, but also the composition of the Board and the challenges and needs of the Board at that time. The Corporate Governance & Nominating Committee shall also consider the impact of any change in the principal occupation of existing directors. Upon completion of the evaluation process of individual directors, the Committee shall report its conclusions and recommendations to the Board.

### **XX. Annual Evaluation**

The Board, led by the Corporate Governance & Nominating Committee, will conduct an annual evaluation of the performance of the Board and its committees and whether they are functioning effectively. This evaluation shall also include annual self-assessments of each Board committee, relying on a review process similar to that used by the Board with the performance criteria for each committee established on the basis of its charter.

In connection with the annual review, the Board will review these Guidelines to consider whether changes may be appropriate.