

*NOTE: This is a sample only.  
Consult with legal counsel before using.*

## **AUDIT COMMITTEE CHARTER**

### **I. Purpose**

The Audit Committee of the Board of Directors of [Organization] shall assist the Board with respect to its oversight of:

- A. The quality and integrity of Organization's annual financial statements;
- B. Organization's compliance with legal and regulatory requirements applicable to its finances;
- C. The independent auditors' qualifications, independence, and performance; and
- D. The performance of Organization's internal accounting function and financial controls.

### **II. Structure and Powers**

The Committee shall be comprised of three or more members of the Board of Directors who are Independent Directors, as defined in these policies, applicable law [or the Organization's bylaws]. The members of the Audit Committee shall be appointed by the Board of Directors and shall serve until each such member's successor is appointed, until such member's term as a Director expires, or until such member's resignation or removal. Any member of the Audit Committee may be removed, with or without cause, by a majority vote of the Board of Directors.

The Board of Directors shall designate a Chair of the Audit Committee by a majority vote of the Board. The Chair shall set the agendas for and Chair the Committee meetings.

Any action duly taken by the Committee shall be valid and effective, whether or not the members of the Committee at the time of such action are later determined not to have satisfied the requirements for membership provided herein.

### **III. Meetings**

The Committee shall meet at least once annually, and more frequently as circumstances require. The Committee shall meet annually with the independent auditors and with management to review the organization's financial statements prior to their presentation to the Board of

Directors.

The Committee shall establish its own schedule of meetings. The Committee may also act by the unanimous written consent of its members.

In order to encourage candor in communications, the Committee may meet separately with each of management and the independent auditors to discuss any matters that the Committee, management, or the independent auditors believes would be appropriate to discuss privately. Participation telephonically or by videoconference by any members of the Committee at any meeting of the Committee shall be an acceptable form of attendance.

The Committee may invite to its meetings any Director, any manager of Organization, or any other person with whom it deems necessary to consult in order to carry out its responsibilities. The Committee may also exclude from its meetings any person whom it deems appropriate to exclude in order to carry out its responsibilities.

#### IV. Duties

##### Introduction

The following functions shall be the common recurring duties of the Committee in carrying out its work. This description of the Committee's duties shall serve as a guide with the understanding that the Committee may fulfill additional duties and adopt additional policies and procedures as may be appropriate in light of changing business, legislative, regulatory, legal, or other conditions. The Committee shall also carry out any other responsibilities and duties delegated to it from time to time by the Board of Directors that are related to the purposes of the Audit Committee.

In discharging its oversight role, the Committee is empowered to study or investigate any matter of interest or concern which the Committee in its sole discretion deems appropriate.

The Committee shall be given full access to Organization's financial records, internal accounting staff, Board of Directors, managers, other staff, and independent auditors as necessary to carry out these duties. When acting within the scope of its stated purposes, the Committee shall have all of the authority of the Board of Directors.

Subject to the direction of the Board, the Committee is authorized and delegated the authority to act on behalf of the Board with respect to any matter necessary or appropriate to the accomplishment of its purposes. The Committee shall have the sole discretion to retain or obtain advice from, oversee and terminate any independent or other auditor, legal counsel or other adviser to the Committee and be directly responsible for the appointment, compensation and oversight of any work of such adviser retained by the Committee, and the Organization will provide appropriate funding (as determined by the Committee) for the payment of reasonable compensation to any such adviser.

Nothing herein shall preclude the Committee from (i) seeking advice from individuals with

expertise in accounting and financial matters who are not members of the Board or the Committee, provided that participation in formal deliberations and voting shall be limited to the Independent Directors of the Committee (as described above) or (ii) providing honorific designations to such persons; provided, that members of current management who are responsible for developing and maintaining financial controls should not also be involved in the Committee's performance of its duties as set forth herein and in Section 712-a(b) of the New York Not-For-Profit Corporation Law.

#### Documents/Reports Review

The Committee shall:

1. Review with management and the independent auditors Organization's annual audited financial statements and any related management letter [prior to their presentation to the Board of Directors];
2. Review with management and Organization's independent auditors Organization's annual IRS Form 990 and all financial reports to be filed with the New York Attorney General; and
3. Perform any functions required to be performed by such a Committee under applicable law, regulations, Organization's bylaws, or resolutions or other directives of the Board of Directors.

#### Independent Auditors

The Committee shall:

1. Review the terms of the engagement of the independent auditors to conduct an annual audit of Organization's financial statement, and retain the independent auditors and approve all engagement fees and terms.<sup>1</sup>
2. Review the proposed scope and planning of the annual audit with the independent auditors prior to the audit's commencement.<sup>2</sup>
3. Approve in advance any significant audit or permitted non-audit engagement or relationship between Organization and the independent auditors.
3. Review the qualification, performance, and independence of the independent auditors.<sup>3</sup> In conducting its review and evaluation, the Committee may consider

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<sup>1</sup> Required of all organizations that must file audited financial statements with the Office of the New York State Attorney General.

<sup>2</sup> Required of all organizations that must file audited financial statements with the Office of the New York State Attorney General and have in excess of \$1 million in revenue.

<sup>3</sup> Required of all organizations that must file audited financial statements with the Office of the New York State Attorney General and have in excess of \$1 million in revenue.

taking any or all of the following actions:

- (a) Obtain and review any available report by Organization's independent auditors describing (i) the auditing firm's internal quality control procedures; (ii) any material issues raised by the most recent internal quality control review, or peer review, of the 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 auditing firm, and any steps taken to deal with such issues; and (iii) to assess the auditors' independence, all relationships between the independent auditors and Organization, its management, its staff, and the Board of Directors.
  - (b) Consider the rotation of the lead (or coordinating) audit partner having primary responsibility for the audit, and the audit partner reviewing the audit, at least every five years.
  - (c) Confirm with any independent auditors retained to provide audit services for any fiscal year that the lead audit partner, and the audit partner responsible for reviewing the audit, has not performed non-audit services for Organization in any of the five years preceding the audit or, if such services have been performed, that such engagement will not affect the independence of the audit process.
  - (d) Take into account the opinions of management and Organization's internal accounting staff.
4. Upon completion of the audit review and discuss with the independent auditor:
- (i) any material risks and weaknesses in internal controls identified by the auditor;
  - (ii) any restrictions on the scope of the auditor's activities or access to requested information imposed by the Organization; (iii) any significant disagreements between the auditor and management; and (iv) the adequacy of the corporation's accounting and financial reporting processes.<sup>4</sup>
5. Notwithstanding the foregoing, the Committee is not responsible for guaranteeing the auditor's report. The fundamental responsibility for Organization's financial statements rests with management.

### Financial Reporting Process

The Committee shall:

1. In consultation with the independent auditors, management, and the internal accounting staff, review the integrity of Organization's financial reporting process. In that connection, the Committee should obtain and discuss with management and the independent auditors reports from management and the independent auditors

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<sup>4</sup> Required of all organizations that must file audited financial statements with the Office of the New York State Attorney General and have in excess of \$1 million in revenue.

regarding (i) all critical accounting policies and practices to be used by Organization; (ii) analyses prepared by management or the independent auditors setting forth significant financial reporting issues and judgments made in connection with the preparation of the financial statements, including all alternative treatments of financial information within generally accepted accounting principles that have been discussed with Organization's management (in particular the reporting of items of expense as program or administrative expenditures), the ramifications of the use of alternative disclosures and treatments, and the treatment preferred by the independent auditors; (iii) major issues regarding accounting principles and financial statement presentations, including any significant changes in Organization's selection or application of accounting principles; (iv) major issues as to the adequacy of Organization's internal controls and any specific audit steps adopted in light of material control deficiencies; and (v) any other material written communications between the independent auditors and Organization's management.

2. Review periodically the effect of regulatory and accounting initiatives that have been identified by the independent auditors on Organization's financial statements.
3. Review with the independent auditors: (i) any audit problems or other difficulties encountered by the independent auditors in the course of the audit process, including any restrictions on the scope of the independent auditors' activities or on access to requested information, and any significant disagreements with management; and (ii) the results of the audit and management's responses. Without excluding other possibilities, the Committee may wish to review with the independent auditors (i) any accounting adjustments that were noted or proposed by the auditors but were "passed" (as immaterial or for any other reason); (ii) any communications between the audit team and the independent auditors' main office respecting auditing or accounting issues presented by the engagement and (iii) any "management" or "internal control" letter issues, or proposed to be issued, by the independent auditors to Organization in connection with the annual audit.
4. Review and discuss with the independent auditors the responsibilities, budget, and staffing of Organization's internal control functions.

## Reports

The Committee shall:

1. Report regularly to the Board of Directors, including:
  - (a) The results of the audit, including any issues that arise regarding the quality or integrity of Organization's financial statements, Organization's compliance with legal or regulatory requirements, the performance of the independent auditors, or the performance of the internal accounting function;
  - (b) The existence and resolution of any complaints under Organization's

whistleblower policy;

(c) The existence and resolution of any conflicts of interest arising under Organization's conflict of interest policy, and

(d) Any other matters that are relevant to the Committee's discharge of its responsibilities.

2. Maintain minutes or other records of meeting of the Committee.

## V. Annual Evaluation

The Committee shall annually review and reassess, at its discretion, the adequacy of this charter and recommend to the Board of Directors, at the time that the annual audit is presented, any improvements that the Committee considers necessary or valuable.

## VI. Definitions

An **Affiliate** of Organization is an entity that is directly or indirectly, through one or more intermediaries, controlled by, in control of, or under common control with Organization.

A person has a **Financial Interest** if such person would receive an economic benefit, directly or indirectly, from any transaction, agreement, compensation agreement, including direct or indirect remuneration as well as gifts or favors that are not insubstantial or other arrangement involving the Corporation.

An **Independent Director** is a member of the Board of Directors who:

1. has not been an employee or a Key Person of the Corporation or an Affiliate of the Corporation within the last three years;
2. does not have a Relative who has been a Key Person of the Corporation or an Affiliate of the Corporation within the last three years;
3. has not received and does not have a Relative who has received more than \$10,000 in compensation directly from the Corporation or an Affiliate of the Corporation in any of the last three years (not including reasonable compensation for services or reimbursement for expenses reasonably incurred as a Director of the Corporation, as set by the Corporation);
4. does not have a substantial Financial Interest in and is not an employee of, and does not have a Relative who has a substantial Financial Interest in or is an Officer (as defined below) of, any entity that has provided payments, property or services to, or received payments, property or services from, the Corporation or an Affiliate of the Corporation in excess of the following, as applicable:

- (i) the lesser of \$10,000 or 2% of the entity's consolidated gross revenue in any of the last three fiscal years if such consolidated gross revenue was less than \$500,000;
  - (ii) \$25,000 if the entity's consolidated gross revenue in any of the last three fiscal years was \$500,000 or more but less than \$10,000,000; or (iii)
  - \$100,000 if the entity's consolidated gross revenue in any of the last three fiscal years was \$10,000,000 or more; and
5. is not and does not have a relative who is a current owner, whether wholly or partially, director, officer or employee of the Corporation's outside auditor or who has worked on the Corporation's audit at any time during the past three years.

A **Key Person** is a person who:

- 1. Has responsibilities, or exercises powers or influence over the Corporation as a whole similar to the responsibilities, powers, or influence of directors and officers;
- 2. Manages the Corporation, or a segment of the Corporation that represents a substantial portion of the activities, assets, income or expenses of the Corporation; or
- 3. Alone or with others controls or determines a substantial portion of the Corporation's capital expenditures or operating budget.<sup>5</sup>

An **Officer** is a person who has the authority to bind the Corporation as designated in the bylaws of the Corporation.

A **Relative** is a spouse or domestic partner as defined in section 2994-A of the New York Public Health Law, ancestor, child (whether natural or adopted), grandchild, great grandchild, sibling (whether whole or half blood), or spouse or domestic partner of a child (whether natural or adopted), grandchild, great grandchild or sibling (whether whole or half blood).

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<sup>5</sup> Consider identifying in the Policy the staff positions identified in this bullet and the preceding bullet.