

## **CELCUITY INC.**

### **AUDIT COMMITTEE CHARTER**

Adopted September 18, 2017

The Board of Directors (“Board”) of Celcuity Inc., a Delaware corporation (“Company”), has adopted this charter to govern the operation of the Audit Committee (“Committee”).

#### **I. PURPOSE**

The purpose of the Committee is to assist the Board with oversight of the integrity of the Company’s financial statements; compliance with legal and regulatory requirements; the qualifications and independence of the Company’s independent registered auditors; and the performance of the Company’s internal audit function. The Committee has oversight over the accounting and financial reporting processes of the Company and the audits of the financial statements of the Company.

The Committee must develop and maintain free and open communication between the directors, the independent auditors, and the financial management of the Company, and must ensure that the independent auditors are accountable to both the Committee and the Board.

#### **II. COMMITTEE ORGANIZATION**

##### **A. Composition, Appointment, and Removal**

The Committee will be comprised of three or more directors as appointed by the Board. The Board will designate a member of the Committee as Chairperson. Committee members may be removed or replaced by the Board with or without cause.

##### **B. Requirement of Independence**

Each member must be free from any relationship that, in the opinion of the Board, would interfere with the exercise of his or her independent judgment as a member of the Committee. Each member of the Committee must satisfy the applicable standards for independence set forth in the rules and regulations of the NASDAQ Stock Market (“NASDAQ”) and the Securities Exchange Act of 1934, as amended (“1934 Act”).

A Committee member must not have participated in the preparation of the Company’s financial statements at any time during the three years prior to such member’s appointment to the Committee.

##### **C. Requirement of Financial Literacy**

Each Committee member must be financially literate, as determined by the Board, or must become financially literate within a reasonable time after his or her appointment to the Committee. Financial literacy includes the ability to read and understand financial

statements, including the Company's balance sheet, income statement, and cash flow statement.

At least one member of the Committee must have accounting or related financial management expertise, as evidenced by past employment experience in finance or accounting, requisite professional certification in accounting, or other comparable experience or background that leads to financial sophistication. At least one member of the Committee must be an "audit committee financial expert" as defined in Regulation S-K.

### **III. COMMITTEE RESOURCES**

In discharging its duties, the Committee is empowered to investigate any matter brought to its attention with full access to all books, records, facilities, and personnel of the Company.

The Committee has the authority, in its sole discretion, to select, retain and obtain the advice and assistance of independent outside counsel, and other such advisors, as it deems necessary to fulfill its duties and responsibilities under this charter. The Committee will set the compensation and oversee the work of outside counsel and other advisors retained by the Committee. The termination of such personnel will be at the sole discretion of the Committee.

The Company must provide appropriate funds in order to pay (i) the fees of any registered public accounting firm engaged for the purpose of preparing or issuing an audit report, or preparing other audit, review or attest services for the Company; (ii) the fees of any consultants, counsel or other advisors hired by the Committee; and (iii) ordinary administrative expenses of the Committee that are necessary or appropriate in carrying out its duties.

### **IV. LIMITATION OF AUDIT COMMITTEE'S ROLE**

While the Committee has the responsibilities and powers set forth in this charter, the members of the Committee are not employees of the Company. It is not the duty of the Committee to plan or conduct audits or to determine that the audited financial statements are complete, accurate, and in accordance with generally accepted accounting principles. Such responsibilities and the fundamental responsibility for the Company's financial statements and internal accounting controls rest with management and the independent auditors. The Committee relies on (i) management for the preparation and accuracy of the Company's financial statements; (ii) management for establishing effective internal controls and procedures to ensure the Company's compliance with accounting standards, financial reporting procedures and applicable laws and regulations; and (iii) the Company's independent auditors for an unbiased, diligent audit or review, as applicable, of the Company's financial statements and the effectiveness of the Company's internal controls.

### **V. RESPONSIBILITIES AND AUTHORITY**

The Committee has the following responsibilities and authority:

## A. Oversight of Independent Auditors

- **Appointment and Oversight.** The Committee has the sole authority to appoint, retain, dismiss, determine compensation for, and oversee an independent registered public accounting firm to act as the Company's independent auditors, as required by the 1934 Act. The Committee is directly responsible for the oversight of the work of the independent auditors engaged for the purpose of preparing or issuing an audit report or performing other audit, review or attest services for the Company. The independent auditors report directly to the Committee and the Committee must have a clear understanding with management and the independent auditors that the independent auditors are ultimately accountable to the Committee.
- **Pre-Approval Requirement.** The Committee must pre-approve all audit and permitted non-audit and tax services that may be provided by the Company's independent auditors or other registered public accounting firms.
- **Evaluation and Rotation of Auditors.** The Committee must, no less than annually, evaluate the independent auditors. The Committee must review the rotation of the independent auditor's partners in accordance with Regulation S-X, and review the performance and qualifications of the independent auditors and discharge the independent auditors when circumstances warrant.
- **Audit Scope and Procedures.** The Committee must discuss with the independent auditors the auditor's responsibilities under generally accepted accounting principles, and the scope, timing, and plans for their respective audits.
- **Review of Annual Audit.** The Committee, in consultation with the independent auditors and management, must discuss the results of the annual audit and any other matters required to be communicated to the Committee by the independent auditors under Statement of Auditing Standards 114.
- **Audit Problems.** The Committee must review with the Company's independent auditors and management: (i) any audit problems or difficulties, including difficulties encountered by the Company's independent auditors during their audit work; (ii) any significant disagreements with management; and (iii) management's response to these problems, difficulties or disagreements. The Committee is responsible for resolving any disagreements between the Company's auditors and management.
- **Review of Accounting Policies and Practices.** The Committee must discuss with the Company's independent auditors: (i) critical accounting policies and practices used by the Company; (ii) all alternative treatments of financial information within generally accepted accounting principles that have been discussed with management, ramifications of the use of such alternative treatments, and the treatment preferred by the independent auditors; and (iii) other material written communications between the Company's auditors and management.
- **Annual Report on the Independence of the Auditor.** The Committee must receive and review, at least annually, a report from the independent auditors discussing all

relationships between the independent auditors and the Company consistent with the applicable requirements of the Public Company Accounting Oversight Board. The Committee must actively engage in a dialogue with the independent auditors with respect to any disclosed relationships or services that may affect the objectivity and independence of the auditor. If necessary, the Committee may take, or recommend that the Board take, appropriate action with respect to the independence of the auditors or other information disclosed in the auditor's annual report.

## **B. Internal Controls**

- **Adequacy of Internal Controls and Financial and Accounting Staff.**
  - **Internal Controls.** The Committee must, at least annually, discuss with management and the independent auditors the adequacy and effectiveness of the Company's internal accounting and financial controls, including any significant deficiencies or material weaknesses in the Company's internal controls, and elicit any recommendations for the improvement of the internal control procedures or particular areas where new or more detailed controls or procedures are desirable.
  - **Financial and Accounting Staff.** The Committee must consider the adequacy of the financial and accounting staff of the Company.
- **Complaints.** The Committee must establish and maintain procedures for the receipt, retention, and treatment of complaints received by the Company regarding accounting, internal accounting controls, and auditing matters. These procedures must allow employees to submit concerns regarding questionable accounting and auditing matters on a confidential, anonymous basis.

## **C. Audit Committee Report, Audited Financial Statements and Required Disclosure Matters**

- **Annual Report.** The Committee must review and discuss with the Company's independent auditors and management the Company's annual audited financial statements (including the related notes), the form of audit opinion to be issued by the auditors on the financial statements and the disclosure under "Management's Discussion and Analysis of Financial Condition and Results of Operations" to be included in the Company's annual report on Form 10-K before the Form 10-K is filed. The Committee must annually report to the Board whether the Committee recommends inclusion of the audited financial statements in the Company's annual report on Form 10-K.
- **Interim Reports.** The Committee must review and discuss with the Company's independent auditors and management the Company's quarterly financial statements and the disclosure under "Management's Discussion and Analysis of Financial Condition and Results of Operations" to be included in the Company's quarterly report on Form 10-Q before the Form 10-Q is filed.

- **Financial Information Disclosure.** The Committee must review with management and the independent auditors earnings press releases and any financial information and earnings guidance provided to analysts and ratings agencies.
- **Proxy Report.** The Committee must review the Company’s annual proxy statement and prepare the Report of the Audit Committee required by SEC rules to be included in the proxy statement.
- **New Requirements.** The Committee must discuss with management and the independent auditors any new accounting and financial requirements, as well as other current developments in accounting principles, auditing standards, independence standards or reporting practices.
- **Significant Reporting Issues.** The Committee must discuss with management and the independent auditors, both separately and together, significant financial reporting issues arising in connection with the preparation of the Company’s financial statements, including: (i) any significant changes in the Company’s accounting policies or procedures; (ii) any judgments made that significantly affected the financial results; (iii) the nature of any unusual or significant commitments or contingent liabilities, including the assumptions underlying such liabilities; and (iv) any major issues as to the adequacy of the Company’s internal controls.

**D. Meetings with Independent Auditors, Management, and Legal Counsel**

- **Independent Auditors and Management.** The Committee must meet with the independent auditors out of the presence of management or others at least annually. Additionally, the Committee must meet separately with management out of the presence of the independent auditors at least annually.
- **Legal Counsel.** The Committee must meet with retained outside legal counsel out of the presence of management or the independent auditors at least annually.

**E. Committee Approval of Related-Party Transactions**

The Committee must (i) review on an ongoing basis, recommend to the Board the approval or disapproval of, and oversee any transaction between the Company and any “related person” as that term is defined in Regulation S-K; (ii) ensure that appropriate disclosures regarding related party transactions have been made; and (iii) as the Committee deems necessary or appropriate, develop policies and procedures for the Committee’s approval of related party transactions.

**F. Performance Review and Evaluation**

- **Performance Evaluation.** The Committee must conduct an evaluation of its performance of its duties under this charter at least annually and must present the results of the evaluation to the Board. This evaluation must address subjects including the Committee’s composition, independence, responsibilities, structures, processes, and effectiveness. As appropriate, the Committee must make recommendations to the

Nominating and Corporate Governance Committee or the Board as a result of its performance evaluation.

- **Reporting to Board.** The Committee must report regularly to the Board regarding the execution of its duties and responsibilities, and must review with the Board any material matters discussed or acted upon by the Committee during the next regular meeting of the Board.
- **Review of Charter.** The Committee must annually review and assess the adequacy of this charter and obtain the approval of the Board for any proposed changes to the charter.

## **VI. COMMITTEE OPERATION**

The Committee must meet at least four times per year, at such times and places as it deems necessary to fulfill its responsibilities. The Committee must report regularly to the Board regarding its actions and make recommendations to the Board as appropriate. The Committee may meet in person or by means of a telephone conference call, and may also act by means of unanimous written consent. Committee minutes must be promptly made available to the members of the Board and filed with the minutes of the meetings of the Board.

A majority of members will constitute a quorum and will be able to conduct the business of the Committee. As it may deem necessary, permissible, or desirable, the Committee may request that members of management or others, including the Company's advisors, be present at meetings of the Committee.

## **VII. MANAGEMENT COOPERATION**

Management of the Company must cooperate with the Committee and render to the Committee such assistance as the Committee requests for the purpose of carrying out its functions.

## **VIII. DELEGATION OF AUTHORITY**

To the extent permissible under applicable laws and regulations, the Committee may delegate any of its responsibilities, along with the authority to take action in relation to such responsibilities, to one or more members of the Committee or a subcommittee as the Committee may deem appropriate.