

# ATCOR MEDICAL HOLDINGS LIMITED

## BOARD CHARTER

*Last Review Date: 24 August 2009*

### 1. INTRODUCTION

This Charter is to be applied in conjunction with the Company's Constitution. It sets out the role, responsibilities and powers of the Board of Directors of AtCor Medical Holdings Limited (**AtCor**) and processes for appointing, assessing, remunerating and removing them. Any reference to an 'Article' is a reference to an Article in AtCor's Constitution.

In carrying out the responsibilities and powers set out in this Charter and the company's Constitution, directors are expected to observe the highest standards of ethical behavior.

The Board reviews this Charter annually in light of current good practice in corporate governance.

### 2. ROLE OF THE BOARD

AtCor's Board is responsible for:

- ensuring that appropriate controls, systems and procedures are in place within AtCor to manage business risks and to ensure compliance with all regulatory and prudential requirements;
- appointing and removing the Chief Executive Officer and determining the conditions of service;
- ratifying the appointment and, where appropriate, the removal of the Chief Financial Officer and the Company Secretary;
- overseeing the performance and activities of AtCor through agreed goals and strategies;
- monitoring the management of AtCor's business;
- ensuring appropriate succession planning for the CEO and senior executives;
- approving and monitoring the progress of major capital expenditure, capital management, and acquisitions and divestitures;
- approving and monitoring financial and other reporting;
- setting delegated authority limits;
- reviewing the performance and approving the remuneration (including financial incentives) of the Chief Executive Officer and senior management as recommended by the Remuneration Committee;
- recommending the appointment, and reviewing the performance of, Directors;
- establishing any incentive plan for senior executives and employees;
- appointing the members of the relevant board sub-Committees;

- monitoring compliance with regulatory requirements and ethical standards;
- monitoring business risks, overseeing the risk management strategy and ensuring effective internal control systems;
- approving the budget, the business plan and compliance policies and monitoring the strategic and financial objectives and performance of the AtCor group;
- approving annual accounts, reports and other public documents;
- ensuring that the group's financial position, trading performance and prospects are effectively communicated to all stakeholders, in particular Shareholders, clients and employees.

### **3. ACCESS TO CHARTER AND CONSTITUTION**

All Board director's management and external auditors have access to this Charter and the company's Constitution. These are also available via the Company's website.

### **4. COMPOSITION**

The composition of the Board is determined with regard to the following criteria:

- The number of directors is limited by Article 6.1 (a) to not less than 3 and not more than 12. The Board considers the present complement of 5 directors (including the Chief Executive Officer) is appropriate and therefore casual vacancies shall be filled as and when they arise to maintain this complement.
- The Chairman of the Board will be a non-executive director.
- The Board will comprise a majority of non-executive directors.
- The Board requires directors to have a broad range of commercial expertise and experience and/or appropriate professional qualifications that will contribute to Board deliberations and decision-making.
- Board members must have a proven ability and capacity to monitor company performance and participate in strategy development.
- The Remuneration Committee will make recommendations to the Board regarding the remuneration and composition of the Board and on proposed performance review criteria.

### **5. ROLE OF THE CHAIRMAN**

The role of the Chairman of the Board and the CEO will not be exercised by the same person.

The Chairman shall be:

- (a) elected by the directors;
- (b) a non-executive director.

The role and responsibilities of the Chairman includes:

- (a) providing leadership to the Board and to AtCor;
- (b) ensuring the efficient organization and conduct of the board;
- (c) monitoring Board performance annually;
- (d) facilitating Board discussions to ensure core issues facing AtCor are addressed;
- (e) briefing all Directors in relation to issues arising at Board Meetings;
- (f) facilitating the effective contribution and ongoing development of all Directors;
- (g) promoting consultative and respectful relations between Board members and between the Board and Management;
- (h) chairing shareholder meetings.

## **6. INDEPENDENCE OF DIRECTORS**

The Board will regularly assess the independence of each director with regard to interests disclosed by them.

In assessing independence, a director will be regarded as independent if that person is a non-executive director and is free from any interest and other business relationship that could materially interfere with that person's ability to act in the best interests of AtCor. Particularly, they must not :

- be a substantial<sup>1</sup> shareholder of AtCor or associated with a substantial shareholder of AtCor;
- have been an executive of AtCor within the last three years;
- have been a principal of a material professional advisor or an employee of a material service provider within the last three years;
- be a material supplier to or a customer of AtCor or its subsidiaries; or
- have a material contractual relationship with AtCor or its subsidiaries other than as a director.

If one of these relationships exists, either directly or through a related party interest, the Board may still consider a director to be independent however it must clearly state the reasons for this decision in the Annual Report. If the independent status of a director is lost this will be disclosed to the market immediately.

## **7. DIRECTOR'S ACCESS, INDEMNITY AND INSURANCE DEED**

A Director's Deed shall be entered into between the company and each director and of each director and officer providing rules for dealing with Board papers and confidential information and outlining the procedure under which directors can obtain independent professional advice at AtCor's expense.

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<sup>1</sup> A substantial shareholding is considered to be more than 5%.

AtCor must reimburse directors for the reasonable expense of obtaining independent professional advice to assist in the proper exercise of powers and discharge of their duties as directors of the company.

Reimbursement is provisional on the Director obtaining the prior written approval of the Chairman of the Board or, if the Director is the Chairman of the Board, the prior written approval of a majority of the non-executive directors of the Company.

The Director's Deed shall also provide that the Company must indemnify directors to the fullest extent permitted by the Corporations Act and set out the terms of the Directors and Officer's Liability Insurance.

## **8. INDEMNITY AND DIRECTORS' AND OFFICERS' INSURANCE**

AtCor maintains Directors and Officer's Insurance that, in effect, covers AtCor to meet its obligations to indemnify directors under the Constitution. The relevant policy also provides individual cover for directors. The maintenance of Directors and Officer's insurance is covered in the Directors' Deed. AtCor retains the services of an insurance broking firm to provide the Board with advice in relation to this type of insurance.

## **9. ACCESS TO INFORMATION AND MANAGEMENT**

In executing their responsibilities, Directors shall have direct and unfettered access to all relevant information and employees within AtCor. Directors should request the information they require or arrange for access to employees through the Chief Executive Officer or Company Secretary.

## **10. RELATIONSHIP WITH MANAGEMENT**

In accordance with the Constitution, the Board has conferred on the CEO as a managing director various powers including the power to do whatever is necessary to:

- implement Board and Management decisions; and
- conduct AtCor's operational, strategic, management and general business affairs.

The CEO may also delegate authority to managers within AtCor. Those delegations are generally contained in job descriptions and in the company's policy on delegation of management authority. In addition, specific authority is delegated to approve capital expenditure and other expenditures and commitments.

## **11. DIRECTORS' REMUNERATION AND RETIREMENT BENEFITS**

In accordance with AtCor's Constitution, the shareholders in general meeting determine the aggregate remuneration to be paid to AtCor's non-executive directors. The Board determines how this amount should be divided among individual directors.

AtCor's Remuneration Committee reviews the level of director's remuneration annually and, in this process, may seek external advice on levels of Board remuneration within similar industry sectors. It may then recommend to the Board whether to seek shareholder approval for an increase in remuneration.

## **12. SHARE OWNERSHIP**

Directors are encouraged to own shares in AtCor to align their interests with those of shareholders. However, there is no mandatory minimum shareholding requirement.

## **13. BOARD MEETINGS**

### **13.1. Attendance**

A quorum may be present in person or by telephone or by video.

Where appropriate, the Chief Executive Officer, Chief Financial Officer and Company Secretary will attend each meeting. Directors are expected to attend at all Board meetings except with prior leave of absence as agreed with the Chairman.

It is also the policy of the Board that, except in the case of unavoidable cause such as illness, all directors attend the AtCor Annual General Meeting and any other meetings of shareholders.

### **13.2. Administration**

The Company Secretary will assist the Chairman in drawing up the agenda and keeping and circulating minutes of each Board meeting. The minutes will be approved by the Board and signed by the Chairman.

## **14. BOARD COMMITTEES**

The Board has established two standing Committees to assist decision-making, supervision and control:

- Audit & Risk Committee and
- Remuneration & Nomination Committee

The Board has approved Charters for each of these Committees, which are regularly reviewed by the Board. These Charters deal with the purpose, membership, authority, responsibilities and duties of each Committee, together with the quorum and frequency of meetings.

Board Committees review or consider matters coming from their Charters and make recommendations to the Board. Minutes of Committee meetings are tabled at the next Board meeting.

Directors are expected to serve on selected standing Committees. The membership of Board Committees is determined by the Board. Prior to such determination, the Chairman will discuss with individual directors their availability and likely contribution.

## **15. PERFORMING REVIEW PROCESS**

The Board will meet at least once each year to review its performance and that of its committees and senior executives. At this time, it will also review the relationship between the Board and management and matters of general corporate governance.

At least once every year, the Chairman of the Board will review the performance and contribution of each non-executive director. The Chairman may at any time or on the recommendation of the Remuneration Committee, request the Board as a whole (other than the director concerned) vote on the question of whether a particular director should remain on the Board. If the majority of directors vote that this director should not remain on the Board, they are expected to resign or refrain from standing for re-election, whichever is more appropriate.

The Board as a whole will review the performance of the Chief Executive Officer and the Chairman of the Board.

A description of the process for evaluating the performance of the Board, its committees and individual directors will be made publicly available and updated as required by posting it on AtCor's website.