

A2

Sample board charter

Part 1 – Interpretation

In this charter:

- *Act* means the Companies Act 1993
- *Board* means the board of directors of the company
- *Business* means the business of the company
- *CEO* means the chief executive officer of the company
- *Chair* means the chair of the board
- *Company* means [name of the company]
- *Company goals* means the goals of the company as set out in part 2
- *Deputy chair* means the deputy chair of the board
- *Management* means the management personnel of the company
- *Management limitations* means the limitations on the actions of management as set out in Part 4
- *Members* means members of the board
- *Secretary* means the board secretary or the person normally exercising the functions of a board secretary
- *Shareholders* means the shareholders of the company.

Part 2 – Company goals

General

The purpose of the company is [purpose].

The capital and resources of the company will be allocated to those assets and activities which will enable it to achieve the company goals in a manner best serving the interests of the shareholders as a whole.

Part 3 – Board governance process

Role of the board

The role of the board is to effectively represent, and promote the interests of, the company with a view to adding long-term value to the company's shares. Having regard to its role the board will direct, and supervise the management of, the business and affairs of the company including, in particular:

- ensuring that the company goals are clearly established, and strategies are in place for achieving them (such strategies being expected to originate, in the first instance, from management)
- establishing policies for strengthening the performance of the company including ensuring that management is proactively seeking to build the business through innovation, initiative, technology, new products and the development of its business capital
- monitoring the performance of management
- appointing the CEO, setting the terms of the CEO's employment contract and, where necessary, terminating the CEO's employment with the company
- deciding on whatever steps are necessary to protect the company's financial position and the ability to meet its debts and other obligations when they fall due, and ensuring that such steps are taken
- ensuring the company's financial statements are true and fair and otherwise conform with law
- ensuring the company adheres to high standards of ethics and corporate behaviour
- ensuring the company has appropriate risk management/regulatory compliance policies in place.

In the normal course of events, day-to-day management of the company will be in the hands of management.

The board will satisfy itself that the company is achieving the company goals.

The board's relationship with shareholders

The board will use its best endeavours to familiarise itself with issues of concern to shareholders. The board will regularly evaluate economic, political, social and legal issues and any other relevant external matters that may influence or affect the development of the business or the interests of shareholders and, if thought appropriate, will take outside expert advice on these matters.

The board's relationship with other stakeholders

The board will use its best endeavours to familiarise itself with issues of concern to all relevant stakeholders. The board recognises that the company's long-term survival and prosperity are closely intertwined with the environments and markets within which it operates and the extent to which the company is seen as a responsible corporate citizen.

Board procedures

The conduct of members will be consistent with their duties and responsibilities to the company and, indirectly, to shareholders. The board will be disciplined in carrying out its role, with the emphasis on strategic issues and policy. Members will always act within any limitations imposed by the board on its activities.

Members will use their best endeavours to attend board meetings and to prepare thoroughly. Members are expected to participate fully, frankly and constructively in board discussions and other activities and to bring the benefit of their particular knowledge, skills and abilities to the board table. Members unable to attend a meeting will advise the chair at the earliest date possible and confirm in writing to the secretary.

Board discussions will be open and constructive, recognising that genuinely-held differences of opinion can, in such circumstances, bring greater clarity and lead to better decisions. The chair will, nevertheless, seek a consensus in the board but may, where considered necessary, call for a vote. All discussions and their record will remain confidential unless there is a specific direction from the board to the contrary, or disclosure is required by law.

Subject to legal or regulatory requirements the board will decide the manner and timing of the publication of its decisions. Executive members attend board meetings to discharge their board responsibilities. At board meetings, board responsibilities supersede all executive responsibilities.

The board has sole authority over its agenda and exercises this through the chair. Any member may, through the chair, request the addition of an item to the agenda. The agenda will be set by the chair in consultation with the CEO and the secretary.

The board will normally hold meetings in each month of the year except January and will hold additional

meetings as the occasion requires. At each normal meeting the company's interests register will be updated as necessary and the board will consider:

- an operational report from the CEO
- a report from the CFO
- reports on their activities from the company's individual business units
- specific proposals for capital expenditure and acquisitions
- major issues and opportunities for the company.

In addition the board will, at intervals of not more than one year:

- review the company goals
- review the strategies and operating plans for achieving the company goals
- approve the annual budget
- approve the annual and half-yearly financial statements, reports to shareholders and public announcements
- approve the annual report
- consider and, if appropriate, declare or recommend the payment of dividends
- review the board composition, structure and succession
- review the company's audit requirements
- review the performance and composition of, and necessity for board committees
- undertake board and individual member evaluations
- review members' remuneration
- review the CEO's performance and remuneration
- review remuneration policies and practices in general including superannuation and incentive schemes for management
- review risk assessment policies and controls including insurance covers and compliance with legal and regulatory requirements
- review the company's code of conduct and ethical standards
- review shareholder, customer and supplier relations
- review donations and sponsorships
- settle the following year's board work plan.

Members are entitled to have access, at all reasonable times, to all relevant company information and to management.

Members are expected to strictly observe the provisions of the Act applicable to the use and confidentiality of company information. In making policy, the board will not reach specific decisions unless it has considered the more general principles upon which they are founded, and in reaching other specific decisions the board will consider the policies against which the decisions are made.

Chair and deputy chair

Each year the board will appoint from among the members a chair and deputy chair.

Both the chair and deputy chair will be non-executive members. The deputy chair will deputise for the chair in their absence or at their request.

The chair is responsible for:

- representing the board to shareholders
- ensuring the integrity and effectiveness of the governance process of the board as set out in Part 3
- maintaining regular dialogue with the CEO over all operational matters and will consult with the remainder of the board promptly over any matter that gives cause for major concern.

The chair will act as facilitator at meetings of the board to ensure that no member, whether executive or non-executive, dominates discussion, that appropriate discussion takes place and that relevant opinion among members is forthcoming. The chair will ensure that discussions result in logical and understandable outcomes.

Board committees

Board committees will be formed only when it is efficient or necessary to facilitate efficient decision-making. Board committees will observe the same rules of conduct and procedure as the board unless the board determines otherwise. Board committees will only speak or act for the board when so authorised. The authority conferred on a board committee will not derogate from the authority delegated to the CEO.

The board has three standing committees, namely the audit, remuneration and nomination committees. Other committees are formed for specific purposes and disbanded as required.

The purposes and membership of the standing committees are as follows:

The *audit committee* consists of three members all of whom, whenever possible, must be non-executive members. The committee provides a forum for the effective communication between the board and the external and internal auditors. The committee reviews the annual and half-yearly financial statements prior to their approval by the board, the effectiveness of management information systems and systems of internal control, and the efficiency and effectiveness of the external and internal audit functions. The chair of the board should not be the chair of the audit committee.

The *remuneration committee* consists of three non-executive members. The committee reviews the remuneration packages of all members and senior management annually and makes recommendations to the board. The packages which consist of base salary, fringe benefits, incentive schemes (including performance-related bonuses), superannuation, and entitlements upon retirement and termination, are reviewed with due regard to performance and other relevant factors including market relativity.

The *nomination committee* consists of the chair, deputy chair and CEO. The committee reviews the composition of the board annually and makes recommendations to the board where considered necessary to ensure the board comprises a majority of non-executive members with an appropriate mix of skills and experience. Where necessary, the committee seeks assistance from external advisers in connection with the suitability of applicants for board membership.

Board composition and mix

The composition of the board will reflect the duties and responsibilities it is to discharge and perform as representative of the interests of shareholders, and in setting the company's strategy and seeing that it is implemented. Generally, the qualifications for board membership are the ability and intelligence to make sensible business decisions and recommendations, an entrepreneurial talent for contributing to the creation of shareholder value, the ability to see the wider picture, the ability to ask the hard questions, preferably some experience in the industry sector, high ethical standards, sound practical sense, and a total

commitment to furthering the interests of shareholders and the achievement of the company goals. Non-executive members will be active in areas which enable them to relate to the strategies of the company and to make a meaningful contribution to the board's deliberations.

They will be independent of management and free from any business or other relationship which could materially interfere with the exercise of their independent judgement. The size of the board will be such that the common purpose, involvement, participation, harmony and sense of responsibility of the members are not jeopardised. It must be large enough to ensure a range of knowledge, views and experience. Generally, the number of members will be between six and eight of which the majority will be non-executive.

Subject to any limitations imposed by shareholders, it is anticipated that non-executive members will hold office initially for three years following their first appointment (or, if appointed by the board between annual meetings, from the date of the meeting next following the appointment), subject to any obligation to retire by rotation in accordance with the company's constitution. Only executive members will be engaged on service contracts. In the event of an executive member's service contract with the company terminating for whatever reason, the member is expected to resign from the board, although the board may, if it considers it appropriate, and subject to shareholders' approval where necessary, reappoint the member as a non-executive member.

Induction of new members

Genuine potential members are encouraged to carry out due diligence on the company before accepting an appointment to the board. On their first appointment, non-executive members will have the benefit of an induction programme aimed at deepening their understanding of the company and the business and the environment and markets in which the company operates. As part of the programme, members will receive a folder of essential board and company information and will meet key management. Members are expected to keep themselves abreast of changes and trends in the business and in the company's environment and markets and to keep abreast of

changes and trends in the economic, political, social and legal climate generally.

Members' remuneration

The board will determine the level of remuneration paid to members within any limitations imposed by shareholders. Non-executive members will be paid a basic fee as ordinary remuneration and will be paid, as additional remuneration, an extra fee as members of board committees, an extra fee as chair of a board committee and an extra fee for any special service as a member. The chair and deputy chair will be paid a level of fees appropriate to their office. For the chair this will generally be 200 per cent, and for the deputy chair 125 per cent, of the basic fees paid to the other non-executive members. Remuneration will be reviewed annually by the board after taking independent advice. Executive members will receive no fees but will be paid as employees of the company in accordance with their contracts of employment with the company.

Shareholdings by members in the company

Members are encouraged to hold shares in the company, recognising that this has the capacity, in many cases, to increase the focus of members on company performance and share value and therefore be in the interests of all shareholders. When buying or selling shares members must strictly observe the provisions of the company's constitution, the company's own internal rules and all relevant legislative or regulatory procedures, and should follow any procedural recommendations prescribed from time to time by the Institute of Directors in New Zealand.

Provision of business or professional services by members

Because a conflict of interest (actual or perceived) may be created, members should not, generally, provide business or professional services of an ongoing nature to the company. Notwithstanding the general rule, the company is at liberty to for the purpose of a special assignment, engage the services of any member having special expertise in the particular field or engage the services of another member of a member's organisation, so long as the terms of engagement are competitive, clearly recorded and all legal requirements for disclosure of the engagement are properly observed.

Other board appointments

Any member is, while holding office, at liberty to accept other board appointments so long as the appointment is not in conflict with the business and does not detrimentally affect their performance as a member. All other appointments must first be discussed with the chair before being accepted.

Independent professional advice

Any member is entitled to obtain independent professional advice relating to the affairs of the company or to their other responsibilities as a member. If a member considers such advice is necessary the member shall first discuss it with the chair and, having done so, shall be free to proceed.

Subject to the prior approval of the chair, the cost of the advice will be reimbursed by the company but the member will ensure, so far as is practicable, that the cost is reasonable.

Board and member evaluations

The board will, each year, critically evaluate its own performance, and its own processes and procedures to ensure that they are not unduly complex and are designed to assist the board in effectively fulfilling its role. Each year, individual members will be evaluated by a process whereby the board determines questions to be asked of each member about themselves and about each other including the chair. Each member answers the questions in writing, and the responses are collected and collated by the chair who then discusses the results with each member. The chair's own position is discussed with the deputy chair and/or the rest of the board.

Indemnities and insurance

Subject to the company's constitution the company will provide members with, and will pay the premiums for, indemnity and insurance cover while acting in their capacities as members, to the fullest extent permitted by the Act.

The company secretary

The appointment of the company secretary is made on the recommendation of the CEO and must be approved by the board. The company secretary is responsible for ensuring that board procedures are followed, that the applicable rules and regulations for the conduct of the affairs of the board are complied with and for all matters

associated with the maintenance of the board or otherwise required for its efficient operation.

All members, particularly the chair, have access to the advice and services of the company secretary for the purposes of the board's affairs and the business.

Part 4 – Board/management relationship

Position of CEO

The board will link the company's governance and management functions through the CEO. All board authority conferred on management is delegated through the CEO so that the authority and accountability of management is considered to be the authority and accountability of the CEO so far as the board is concerned. The board must agree to the levels of sub-delegation immediately below the CEO. The board will agree with the CEO to achieve specific results directed towards the company goals. This will usually take the form of an annual performance contract under which the CEO is authorised to make any decision and take any action within the management limitations, directed at achieving the company goals.

Between board meetings the chair maintains an informal link between the board and the CEO, expects to be kept informed by the CEO on all important matters, and is available to the CEO to provide counsel and advice where appropriate. Only decisions of the board acting as a body are binding on the CEO. Decisions or instructions of individual members, officers or committees should not be given to the CEO and are not binding in any event except in those instances where specific authorisation is given by the board.

Accountability of CEO to board

The CEO, in association with the chair, is accountable to the board for the achievement of the company goals and the CEO is accountable for the observance of the management limitations. At each of its normal monthly meetings the board should expect to receive from or through the CEO:

- the operational and other reports and proposals referred to above
- such assurances as the board considers necessary to confirm that the management limitations are being observed.

Management limitations

The CEO is expected to act within all specific authorities delegated to them by the board. The CEO is expected to not cause or permit any practice, activity or decision that is contrary to commonly accepted good business practice or professional ethics. In allocating the capital and resources of the company the CEO is expected to adhere to the company goals. The CEO is expected to not cause or permit any action without taking into account the health, safety, environmental and political consequences and their effect on long-term shareholder value.

In financing the company, the CEO is expected to not cause or permit any action that is likely to result in the company becoming financially embarrassed. The assets of the company are expected to be adequately maintained and protected, and not unnecessarily placed at risk. In particular, the company must be operated

with a comprehensive system of internal control, and assets or funds must not be received, processed or disbursed without controls that, as a minimum, are sufficient to meet standards acceptable to the company's external auditors. One of the tools used as a framework is an asset management plan for both on and off balance sheet assets.

In managing the risks of the company, the CEO is expected to not cause or permit anyone to substitute their own risk preferences for those of the shareholders as a whole (for example, as expressed through a board approved risk management plan). The CEO is expected to not permit employees and other parties working for the company to be subjected to treatment or conditions that are undignified, inequitable, unfair or unsafe.