

## BOARD CHARTER

<b>Policy Name:</b>	Board Charter
<b>Effective Date:</b>	27 April 2009
<b>Approved By:</b>	eircom Holdings Board
<b>Owner:</b>	Company Secretary
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## 1. ROLE OF THE BOARD

This Board Charter (Board Charter) sets out the principles for the operation of the Board of Directors (Board) of eircom Holdings Limited (the Company) and to describe the functions of the Board and those functions delegated to management of the Company. This Board Charter applies to the Company and its subsidiaries (Group).

The Board is accountable to shareholders for the proper management of the Company's business and affairs. The Board guides and monitors the business and affairs of the Company on behalf of the shareholders by whom they are elected and to whom they are accountable.

At all times the Board must act honestly, fairly and diligently in all respects in accordance with the law applicable to the Company.

## 2. RESPONSIBILITIES OF THE BOARD

The Board is responsible for the management of the affairs of the Company, including:

### 3. STRATEGIC AND FINANCIAL PERFORMANCE

- Developing and approving the corporate strategy.
- Evaluating, approving and monitoring the strategic and financial plans and objectives of the Company.
- Evaluating, approving and monitoring the annual budgets and business plans.
- Determining the Company's dividend policy, the operation of the Company's dividend re-investment plan, and the amount and timing of all dividends.
- Evaluating, approving and monitoring major capital expenditure, capital management and all major acquisitions, divestitures and other corporate transactions, including the issue of securities of the Company.
- Approving all accounting policies, financial reports and material reporting and external communications by the Company.
- Appointment of the Chairman and Deputy Chairman of the Board.

### 4. EXECUTIVE MANAGEMENT

- Appointing, monitoring, managing the performance of, and, if necessary, terminating the employment of the Chief Executive Officer of the Company. The Board will consider the job description of the Chief Executive Officer of the Company, including his authorities and accountabilities, as well as performance indicators to provide monitoring benchmarks.
- Managing succession planning for the positions of Chief Executive Officer of the Company and such other key management positions which may be identified from time to time.
- Appointing the Company Secretary.
- On the advice of the Chairman and Chief Executive Officer of the Company, overseeing and ratifying the appointment and termination of executives who report directly to the Chief Executive Officer of the Company and other key management positions which may be identified from time to time.
- With the advice and assistance of the Nomination, Governance and Remuneration Committee, reviewing and approving the performance evaluation and remuneration of the Chairman, Chief Executive Officer of the Company, and the Company's senior executives as well as policies with respect to remuneration of all employees.

### 5. AUDIT AND RISK MANAGEMENT

- With the recommendation of the Audit, Risk and Compliance Committee, appoint the external auditor and determine the auditor's remuneration and terms of appointment.
- Ensure that effective audit, risk management and regulatory compliance programs are in place to protect the Company's assets and shareholder value.
- Approving and monitoring the Company's risk and audit framework, including (but not limited to) systems of risk management and internal control. Approving and, with the assistance and advice of the Audit, Risk and Compliance Committee, monitoring compliance with the Company's risk and audit policies and protocols.
- Monitoring the Company's operations in relation to, and compliance with, relevant regulatory and legal requirements.

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## 6. STRATEGIC PLANNING

- The Board will be actively and regularly involved in strategic planning.
- Strategic planning will be based on the identification of opportunities and the full range of business risks that will determine which of those opportunities are most worth pursuing.
- The Board will, on an ongoing basis, review with management how the strategic environment is changing, what key business risks and opportunities are appearing, how they are being managed and what, if any, modifications in strategic direction should be adopted.

## 7. CORPORATE GOVERNANCE

- At least once per year the Board will, with the assistance and advice of the Nomination, Governance and Remuneration Committee, review the performance and effectiveness of the Company's corporate governance policies and procedures and, if appropriate, amend those policies and procedures as necessary.
- The Board will review and approve all disclosures related to any departures from the ASX Principles of Good Corporate Governance and Best Practice Recommendations (as amended by the Corporate Governance Principles and Recommendations, 2nd Edition, published by the ASX Corporate Governance Council, and which came into effect on 1 January 2008).
- The Board will review and approve the public disclosure of any of the Company's policies and procedures.
- The Board will supervise the public disclosure of all matters that the law and ASX Listing Rules require to be publicly disclosed, consistent with the Continuous Disclosure Compliance Policy approved by the Board.
- The Board will approve the appointment of Directors to Committees established by the Board.
- The Board will approve and monitor delegations of authority.

## 8. PERFORMANCE EVALUATION

- At least once per year the Board will, with the advice and assistance of the Nomination, Governance and Remuneration Committee, review and evaluate the performance of the Board, each Board Committee, and each individual Director against the relevant charters, corporate governance policies, and agreed goals and objectives.
- Following each review and evaluation the Board will consider how to improve its performance.
- The Board will agree and set the goals and objectives for the Board and its Committees each year, and if necessary, amend the relevant charters and policies.
- With the advice and assistance of the Nomination, Governance and Remuneration Committee, the Board will review and approve the remuneration of the Company's Executive and Non-Executive Directors.

## 9. STRUCTURE OF THE BOARD

### Overview

The Board, with the recommendation of the Nomination, Governance and Remuneration Committee determines the size and composition of the Board subject to the terms of the Constitution of the Company and this Charter. The continued tenure of each Director is subject to re-election from time to time in accordance with the Constitution.

The Board will comprise a minimum of four Directors with a broad range of skills, expertise, and experience and combined should possess the skills to guide and monitor the business and affairs of the Company.

At all times the Board should include at least two independent directors. It is preferable that the Board be comprised of equal numbers of independent and non-independent directors, or a majority of independent directors.

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## 10. CRITERIA FOR AN INDEPENDENT DIRECTOR

An "Independent" Director is a Non-Executive Director who:

- Is not a substantial shareholder (as defined in the Corporations Act) of the Company or an officer of, or otherwise associated directly with, a substantial shareholder of the Company.
- Within the past three years has not been employed in an executive capacity by the Company or another Group member, or been a director after ceasing to hold any such employment.
- Within the last three years has not been a principal of a material professional adviser or a material consultant to the Company or another Group member, or an employee materially associated with the service provided.
- Is not a material supplier or customer of the Company or the Group member or an officer of or otherwise associated directly or indirectly with a material supplier or customer.
- Has no material contractual relationship with the Company or another Group member other than as a director of the Company.
- Has not served on the Board for a period which could, or could reasonably be perceived to, materially interfere with the Director's ability to act in the best interests of the Company.
- Is free from any interest and any business or other relationship which could, or could reasonably be perceived to, materially interfere with the Director's ability to act in the best interests of the Company.
- Family ties and cross-directorships may be relevant in considering interests and relationships which may compromise independence and should be disclosed by Directors to the Board.

## 11. CHAIRMAN

It is desirable that the Chairman of the Board be an independent director. In any case, the position of Chairman shall not be held by the existing Chief Executive Officer, or by any person who, in the past 12 months has been or has acted in the position of Chief Executive Officer.

If at any time, the Chairman is NOT an independent director then the Deputy Chairman MUST be an independent director.

In addition to any other powers and duties conferred by the Board, the Deputy Chairman will chair:

- Any Board meeting from which the Chairman is absent.
- Any meeting of Independent Directors who meet in that capacity.

## 12. RESPONSIBILITIES OF DIRECTORS

Each Director is bound by all Company charters, policies and codes of conduct, including:

- The Code of Conduct.
- The eircom Holdings Limited Share Trading Policy.
- Attending Board meetings.
- The Employee Investment Policy; and
- The Continuous Disclosure and Communications Policy.

The Directors of the Company must:

- Conduct their duties at the highest level of honesty and integrity.
- Act with required care and diligence, demonstrating commercial reasonableness in their decisions.
- Make reasonable inquiries to ensure that the entity is operating efficiently, effectively and legally towards achieving its goals.
- Observe the rule and the spirit of the law and comply with any relevant ethical and technical standards.
- Maintain the confidentiality of all information acquired in the course of conducting the role and not make improper use of, or disclose to third parties, information gained through their position of Director or any confidential information unless that disclosure has been authorised by the Board, or is required by law or by the ASX Listing Rules.

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- Observe the principles of independence, accuracy and integrity in dealings with the Board, board committees, internal and external auditors and senior management.
- Disclose to the Board any actual or perceived conflicts of interest, whether of a direct or indirect nature, of which the director becomes aware and which the director reasonably believes may compromise the reputation or performance of the Company.
- Set a standard of honesty, fairness, integrity, diligence and competency in respect of the position of Director.
- Undertake diligent analysis of all proposals placed before the Board.

### **13. DIVISION OF AUTHORITY BETWEEN THE CHAIRMAN AND CHIEF EXECUTIVE OFFICER**

#### **Objective**

The Company recognises that it is important that the Chairman and the Chief Executive Officer have defined roles in the organisation and operate in accordance with clear functional lines.

### **14. SPECIFIC DUTIES OF THE CHAIRMAN**

The Chairman will:

- Ensure the Board provides leadership and vision to the entity.
- Lead the Board, ensuring its effectiveness on all aspects of its role.
- Establish the agenda for Board meetings, in consultation with the Chief Executive Officer and Company Secretary and ensure that all Board members are provided, on a timely basis, with the information necessary to undertake effective decision making and actions.
- Preside over Board meetings and direct board discussions to effectively use the time available to address the critical issues facing the entity.
- Ensure Board minutes properly reflect Board decisions.
- Chair meetings of shareholders, including the Annual General Meeting of the Company.
- Be the primary spokesperson for the Company and represent the Company's views at the Annual General Meeting and in dealings with the general public, regulators and other stakeholders. The Chief Executive Officer will assist in this regard.
- Be the primary channel of communication and point of contact between the Board (and the directors) and the Chief Executive Officer.
- Chair the Chief Executive Officer evaluation process through the Nomination, Governance and Remuneration Committee.
- Provide guidance and mentoring to the Chief Executive Officer.
- Guide the ongoing effectiveness and development of the Board and individual Directors.

### **15. MANAGEMENT DELEGATIONS**

For the purpose of carrying out the responsibilities set out above, the Board delegates to the Chief Executive Officer the power to manage the day-to-day business of the Group. The Chief Executive Officer is authorised to delegate his powers.

The Chief Executive Officer's powers are subject to:

- The specific powers and authorities delegated to the Chairman and to the various Board committees.
- The following powers which are retained by the Board:
  - a) contracts, commitments and capital expenditure above specified thresholds and limits determined by the Board from time to time,
  - b) expenditure outside the ordinary course of business in excess of thresholds or limits specified by the Board for this purpose,
  - c) major strategic decisions,
  - d) adoption of the Company's annual budget,
  - e) approval of financial reports and accounts which are to be lodged with any regulator, including the ASX,
  - f) the issue of any equity securities by the Company, except under a program previously approved by the Board, and
  - g) commencing or taking a significant step in major litigation.

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## 16. CONFIDENTIAL INFORMATION AND EXTERNAL COMMUNICATION

The Board has established the following principles to apply in respect of information of the Company:

- Generally, the Chairman and Chief Executive Officer will speak for the Company. Individual Board members are not expected to communicate on behalf of the Board or the Company without prior consultation with the Chairman or the Chief Executive Officer.
- All disclosures of information to a shareholder which is not disclosed to the market must still be approved under the Continuous Disclosure and Communications Policy and must comply with the ASX Listing Rules.
- All Directors are required to keep all information provided to them in their capacity as a Director confidential.

## 17. CONFLICTS OF INTEREST

The Directors of the Company are required to act in a manner which is consistent with the best interests of the Company as a whole free of any actual or possible conflicts of interest.

If a Director considers that he or she might be in a position where there is a reasonable possibility of conflict between his or her personal or business interests, the interests of any associated person, or his or her duties to any other company, on the one hand, and the interests of the Company or his or her duties to the Company, on the other hand, the Board requires that the Director:

- Fully and frankly informs the Board about the circumstances giving rise to the conflict.
- Abstains from voting on any motion relating to the matter and absents himself or herself from all board deliberations relating to the matter, including receipt of Board papers bearing on the matter.

If a Director believes that he or she may have a conflict of interest or duty in relation to a particular matter, the director should immediately consult with the Chairman.

## 18. RELATED PARTY TRANSACTIONS

The Board has adopted an Employee Investment Policy and has delegated to the independent Director members of the Audit, Risk and Compliance Committee responsibility for administering the policy and reviewing and monitoring related party transactions and investments involving the Company and its Directors or executives.

The Directors must comply with the Employee Investment Policy, including providing such information as may be required by the Board or its delegate about any such investment or transaction.

## 19. MEETINGS

### Overview

The Board will meet not less than 6 times formally per annum and as frequently as may otherwise be required to deal with urgent matters.

A meeting of the Board will usually be convened by the Chairman, although under the Company's Constitution a meeting may be called by any Director.

All Directors are expected to diligently prepare for, attend, and participate in all Board meetings. At a minimum, a quorum of Directors under the Company's Constitution is 2. Meetings of the Board may be held or participated in by conference call or similar means. Resolutions of the Board may be passed by circular resolution or in writing in accordance with the Company's Constitution.

The Chairman in conjunction with the Chief Executive Officer should ensure the availability and, if necessary, the attendance at the relevant meeting of any member of executive management responsible for a matter included as an agenda item at the relevant meeting.

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## 20. AGENDA

An agenda will be prepared for each Board and committee meeting. The agenda will be prepared by the Company Secretary under the supervision of the Chairman and the Chief Executive Officer.

The following items will be standing items on the agenda unless otherwise determined by the Chairman:

- Approval of minutes of previous meeting
- Report by the Chief Executive Officer
- Report of the Audit, Risk and Compliance Committee
- Report of the Nomination, Governance and Remuneration Committee
- Report of the Continuous Disclosure and Communications Committee (via the Audit, Risk and Compliance Committee).

## 21. BOARD COMMITTEES

In order to fulfil its duties, the Board has established the following committees:

- The Audit, Risk and Compliance Committee, which is responsible for monitoring and advising the Board on the Company's audit, risk management and regulatory compliance policies and procedures.
- The Nomination, Governance and Remuneration Committee, which is responsible for advising the Board on the composition of the Board and its Committees, reviewing the performance of the Board, its Committees, and individual Directors, and advising the Board on appropriate corporate governance standards and policies, together with ensuring that the Directors, Chief Executive Officer and senior management are remunerated fairly, and overseeing the remuneration and human resources policies and practices of the Company.
- Continuous Disclosure and Communications Committee, which oversees the implementation and operation of this Continuous Disclosure and Communications Policy.

Although the Board may delegate powers and responsibilities to these committees, the Board retains ultimate accountability for discharging its duties.

The composition of the membership, including the Chairman, of each of these committees will be as determined by the Board from time to time, subject to:

- The composition of the Audit, Risk and Compliance Committee, which will comprise at least two, preferably three, non-executive Directors, all of whom will be Independent Directors and will not be chaired by the Chairman of the Board.
- Where the Charter of a particular committee contains specific requirements as to its composition.

The Board will consider and approve the charters of the various committees. These Charters will identify the areas in which the Board will be assisted by each committee.

## 22. INDEPENDENT ADVICE

A Director of the Company is entitled to seek independent professional advice (including, but not limited to, legal, accounting and financial advice) at the Company's expense on any matter connected with the discharge of his or her responsibilities in accordance with the procedures and subject to the conditions set out below:

- A Director must seek the prior approval of the Chairman.
- In seeking the prior approval of the Chairman, the Director must provide the Chairman with details of:
  - a) the nature of the independent professional advice;
  - b) the likely cost of seeking the independent professional advice; and
  - c) details of the independent adviser he or she proposes to instruct.
- The Chairman may set a reasonable limit on the amount that the Company will contribute towards the cost of obtaining such advice.

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- All documentation containing or seeking independent professional advice must clearly state that the advice is sought both in relation to the Company and to the Director in his or her personal capacity. However, the right to advice does not extend to advice concerning matters of a personal or private nature, including for example, matters relating to the Director's contract of employment with the Company (in the case of an executive director) or any dispute between the Director and the Company.
- The Chairman may determine that any advice received by an individual Director will be circulated to the remainder of the Board.

All Directors are entitled to the benefit of the Company's standard Deed of Access, Indemnity and Insurance which provides ongoing access to Board Papers and, at the Company's expense, Directors and Officers insurance for 7 years after the Director leaves the Board.

### **23. REMUNERATION**

The quantum and structure of Director and executive remuneration will be set by the Nomination, Governance and Remuneration Committee.

### **24. CONTINUOUS DISCLOSURE**

The Board has adopted a policy related to the continuous disclosure obligations of the Company under the ASX Listing Rules. The Continuous Disclosure and Communications Committee will oversee the implementation of that policy and will report to the Audit, Risk and Compliance Committee, which in turn will report to the Board at regular Board meetings.