



**HEARTWARE INTERNATIONAL, INC.**

**CHARTER OF THE NOMINATING AND GOVERNANCE COMMITTEE  
OF THE BOARD OF DIRECTORS**

**I. PURPOSE**

This Charter specifies the scope of the responsibilities of the Nominating and Governance Committee (the “Committee”) of the Board of Directors (the “Board”) of HeartWare International, Inc. (the “Company”) and the manner in which those responsibilities shall be performed, including its structure, processes and membership requirements.

The primary responsibilities of the Committee are to (i) identify individuals qualified to become Board members; (ii) select, or recommend to the Board, director nominees for each election or appointment of directors; (iii) develop and recommend to the Board criteria for selecting qualified director candidates; (iv) consider committee member qualifications, appointment and removal; (v) recommend corporate governance principles, committee charters and codes of conduct applicable to all employees, officers and directors of the Company, and (vi) provide oversight in the evaluation of the Board and each committee.

**II. ORGANIZATION AND MEMBERSHIP REQUIREMENTS**

The Committee shall be comprised of three or more directors appointed annually, each of whom shall be “independent” under the rules of The Nasdaq Stock Market (“Nasdaq”) and the rules and regulations of the Securities and Exchange Commission (the “SEC”).

The members of the Committee shall be appointed by the Board on the recommendation of this Committee and shall serve until their successors are duly elected and qualified or their earlier resignation or removal. Membership on the Committee shall automatically end at such time as the Board determines that a member ceases to meet the independence requirements of Nasdaq, the SEC, or other applicable law. Any member of the Committee may be removed or replaced by the Board. Unless a chairperson is elected by the full Board, the members of the Committee may designate a chairperson by majority vote of the full Committee membership. The Chairperson shall preside at all regular sessions of the Committee and set the agenda for each Committee meeting.

**III. MEETINGS**

The Committee shall meet as often as it deems necessary to fulfill its responsibilities hereunder, but not less frequently than two times per year. Meetings may be called by the Chairperson of the Board or of the Committee. A majority of the members shall represent a quorum of the Committee, and, if a quorum is present, any action approved by at least a majority of the members present shall represent the valid action of the Committee. The Committee shall meet in executive session without management present periodically, and may meet with

management, individual directors or any of its advisors at any time it deems appropriate to discuss any matters before the Committee. The Committee may also take any action permitted in this Charter without a meeting by unanimous written consent. The Committee shall maintain written minutes of its meetings along with any written consents taken without a meeting, which will be filed with the minutes of the Committee.

#### **IV. RESPONSIBILITIES**

To fulfill its responsibilities and duties hereunder, the Committee shall:

##### **A. Nominating Functions**

1. Evaluate periodically the desirability of and recommend to the Board any changes in the size and composition of the Board.

2. Determine and recommend to the Board criteria for selecting new directors, including desired board skills, attributes and diversity, and identify and actively seek individuals qualified to become directors.

3. Except for when the Company is at any time legally required by contract or otherwise to provide any third party with the ability to nominate a director, the Committee will evaluate and select, or recommend to the Board, nominees for each election or appointment of directors. In making nomination recommendations, the Committee will evaluate each nominee in accordance with the general and specific criteria set forth in the Company's Corporate Governance Guidelines and described in the Company's proxy statement.

4. Consider any nominations of director candidates validly made by the Company's stockholders utilizing the same criteria as it does in considering other candidates.

5. Evaluate and make recommendations to the Board concerning director independence and "audit committee financial expert" determinations in accordance with the requirements of Nasdaq and the SEC.

6. Review and make recommendations to the Board concerning Board committee structure and the qualifications, appointment and removal of committee chairpersons and members and consider rotating directors among Board committees as appropriate.

7. Review any director resignation letter tendered in accordance with the Corporate Governance Guidelines and evaluate and recommend to the Board whether such resignation should be accepted.

##### **B. Corporate Governance Functions**

1. Develop, recommend for Board approval, and review on an ongoing basis the adequacy of the corporate governance principles and practices applicable to the Company, including the Company's Certificate of Incorporation, By-laws and Corporate Governance Guidelines. In consultation with the Audit Committee, review and recommend for Board

approval, updates to the Company's Code of Business Conduct and Ethics applicable for all employees, officers and directors, as necessary.

2. Review, at least annually, the Company's compliance with Nasdaq corporate governance listing requirements and the Company's Corporate Governance Guidelines, and report to the Board regarding the same.

3. Assist the Board in developing the criteria and process for the annual evaluation of Board and committee performance and, if requested by the Board, assist the Board in evaluating performance of the Board and its committees.

4. Conduct an evaluation of the Committee's own performance on an annual basis.

5. Develop with management orientation materials for new directors and corporate governance-related continuing education for all Board members.

6. Oversee the Company's succession planning for the Board as well as the Company's executive officers, including the Chief Executive Officer.

7. Review the Company's Stock Ownership Guidelines annually to determine satisfaction against stated objectives and whether the Stock Ownership Guidelines continue to function in the best interests of the Company and its stockholders periodically, and, if appropriate, make recommendations to the Board regarding modification to these guidelines.

8. Develop and oversee a Company orientation program for new directors and a continuing education program for current directors, and periodically review and update these programs as necessary.

9. Review and reassess the adequacy of this Charter at least annually and recommend any proposed changes to the Board for approval.

10. Make reports to the Board regarding the foregoing as appropriate.

## **V. RESOURCES AND AUTHORITY**

The Committee may in its sole discretion, from time to time, delegate duties or responsibilities to subcommittees or to one or more members of the Committee.

The Committee, in discharging its oversight role, is empowered to study or investigate any matter of interest or concern that the Committee deems appropriate and request information from management in connection with such investigation. The Committee shall have the authority to retain and obtain advice or assistance from consultants, legal counsel or other advisors as appropriate to perform its duties hereunder, and to determine the terms, costs and fees for such engagements. Without limitation, the Committee shall have the authority to retain or terminate any search firm to be used to identify director and executive officer candidates and to determine and approve the terms, costs and fees for such engagements. The reasonable fees and costs of any search firm, consultant or advisor engaged by the Committee to assist the Committee in performing its duties hereunder shall be borne by the Company. The Committee

may also perform such other activities consistent with this Charter, the Company's Bylaws and governing law, as the Committee or the Board deems necessary or appropriate.