

**CHARTER OF THE AUDIT COMMITTEE  
OF THE  
BOARD OF DIRECTORS OF XG SCIENCES, INC.**

**As Amended and Approved October 19, 2018 and Effective November 7, 2018**

The Board of Directors (the "Board") of XG Sciences, Inc. (the "Corporation") has established an Audit Committee ("Committee") to be comprised from time to time of certain of its directors. The Board has adopted this charter to set forth the purpose, authority, composition, procedure, and responsibilities of the Committee.

**I. PURPOSE**

The Committee is established for the primary purpose of assisting the Board in its oversight of the Corporation's tax, legal, regulatory, and ethical compliance. In particular, the Committee will provide assistance to the Board in the following areas:

1. Oversight and monitoring of the Corporation's financial statements, accounting and financial reporting processes, financial statement audits, and other financial information provided by the Corporation to its shareholders and others;
2. Overseeing the Corporation's compliance with legal, regulatory, and public disclosure requirements;
3. Oversight of the Corporation's registered public accounting firm's ("independent auditor") qualifications and independence;
4. Overseeing the performance of the Corporation's independent auditor and the internal audit function;
5. Overseeing the Corporation's systems of disclosure controls and procedures, internal controls over financial reporting, and compliance with ethical standards adopted by the Corporation;
6. Oversight of treasury and finance matters;
7. Oversight and monitoring of enterprise risk management, privacy, and data security;
8. Oversight of the auditing, accounting, and financial reporting process generally;
9. Preparation of a report of the Committee to be included in the Corporation's annual proxy statement in accordance with any applicable rules of the Securities and Exchange Commission ("SEC"); and

10. Review and approval of related-party transactions (as defined by any applicable rules of the SEC and any applicable listing standards of the Nasdaq Stock Market (“NASDAQ”)).
11. Review and investigate any reported violations of the Company’s Code of Business Conduct and Ethics involving any member of senior management.

The Committee’s role is one of oversight as set forth in this charter. The Committee will not itself prepare financial statements or perform audits or investigations. It is not the duty of the Committee to conduct audits or to determine that the Corporation’s financial statements and disclosures are complete and accurate or in accordance with generally accepted accounting principles and applicable rules and regulations. These are the responsibilities of management and the independent auditor. The Committee’s members are not auditors or certifiers of the Corporation’s financial statements.

## **II. AUTHORITY AND RESOURCES**

### **A. Authority**

The Committee has the authority to conduct investigations into any matters within its scope of responsibility and to obtain advice and assistance from outside legal, accounting, and other advisers as appropriate to perform its responsibilities under this Charter. The Committee may request that any officer or employee of the Corporation or the Corporation’s outside counsel or independent auditor attend a Committee meeting or meet with any members or advisers of the Committee. The Committee may also request that the Corporation provide the Committee with the support of one or more Corporation employees to assist it in carrying out its duties. The Committee will be given full access to the Corporation’s books, records, facilities, and other personnel for the purpose of fulfilling its responsibilities and duties. The Committee also has the authority to hire and terminate independent legal, financial, and other advisers as it may deem necessary, at the Corporation’s expense, without consulting with or obtaining approval from any officer of the Corporation. The Committee shall also carry out any other responsibilities and duties delegated to it by the Board from time to time related to the purposes of the Committee outlined in Section I of this charter. While acting within the scope of its stated purpose, the Committee shall have all the authority of the Board.

### **B. Funding**

The Corporation will provide appropriate funding, as determined by the Committee, for compensation to the independent auditor, to any advisers that the Committee chooses to engage, and for payment of ordinary administrative expenses of the Committee that are necessary or appropriate in carrying out its duties.

### **C. Fulfillment of Roles**

The Committee will fulfill its oversight role and additional purposes primarily by carrying out the activities enumerated in Section V of this charter.

### III. COMPOSITION OF THE COMMITTEE

The members of the Committee will be appointed by the Board from among the Corporation's directors. The members of the Committee shall serve until their successors are duly elected and qualified by the Board, or until their resignation or removal. The Board will determine the number of members on the Committee from time to time, but in any event the Committee will be composed of at least three Board members or any greater minimum number as required by applicable law, the Corporation's Bylaws, or the Corporation's contractual obligations. The Board may appoint a chairperson and secretary for the Committee. If the Board does not appoint a chairperson or a secretary, the members of the Committee may elect a chairperson or secretary, respectively, by majority vote.

Each member of the Committee must be "independent" in accordance with the Corporation's contractual obligations and any applicable SEC and NASDAQ rules. The Board shall determine the standards that are currently applicable to determining whether a member is "independent" and whether each member or nominee member of the Committee satisfies those standards.

The members of the Committee must also satisfy other applicable qualification rules of NASDAQ and the SEC. Generally, each member of the Committee must have a strong level of accounting or financial acumen and must be able to read and understand fundamental financial statements. Each member of the Committee shall (i) not have accepted, directly or indirectly any consulting, advisory, or other compensatory fee from the Company or any of its subsidiaries other than as a director or member of a committee of the Board (ii) not be an affiliate of the Company or any of its subsidiaries as defined by the applicable rules of the SEC and Nasdaq or (iii) not have participated in the preparation of the Company's financial statements or of any of its subsidiaries during the past three years. To the extent required by applicable rules of the SEC and NASDAQ, at least one member of the Committee must be a "financial expert" as defined by the applicable rules of the SEC and NASDAQ. In general, to be considered a "financial expert," an audit committee member must have the following attributes:

1. An understanding of generally accepted accounting principles and financial statements;
2. The ability to assess the general application of generally accepted accounting principles in connection with the accounting for estimates, accruals, and reserves;
3. Experience preparing, auditing, analyzing, or evaluating financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of issues that can reasonably be expected to be raised by the Corporation's financial statements, or experience actively supervising one or more persons engaged in such activities, such as a professional accounting certification or experience as a chief executive officer, chief financial officer or other senior officer with financial oversight responsibilities;
4. An understanding of internal controls and procedures for financial reporting; and

5. An understanding of audit committee functions.

#### **IV. COMMITTEE MEETINGS**

The Committee will meet at least quarterly, or more frequently as circumstances dictate. The chairperson of the Committee, any member of the Committee, or the chief executive officer of the Corporation may call meetings of the Committee. The Committee will meet at least quarterly in separate executive sessions with management, the primary person responsible for the Corporation's internal audit function, and the independent auditors to discuss any matters that the Committee or any of these groups believes should be discussed privately. The Committee will meet with the independent auditors and management quarterly to review the Corporation's financial information. The chairperson of the Committee, in consultation with the Committee members and management, will determine the frequency and length of Committee meetings. Additionally, the Committee may invite to its meetings any director, member(s) of management of the Corporation and such other persons as it deems appropriate in order to carry out its responsibilities. The Committee may also exclude from its meetings any person it deems appropriate in order to carry out its responsibilities.

At the beginning of the year, the Committee will establish a schedule of regular meetings and agenda subjects to be discussed during the year (to the extent these can be foreseen). The Committee chairperson will prepare and circulate a proposed agenda for each of the Committee's meetings, and any member may suggest items for consideration. Briefing materials will be provided to Committee members as far in advance of meetings as practicable. The Committee will make recommendations to the Board as it deems appropriate, and the Committee will maintain written minutes of its meetings, which will be filed with the meeting minutes of the Board.

A majority of the members of the Committee constitutes a quorum for the transaction of business. The vote of the majority of members present at a meeting at which a quorum is present constitutes the action of the Committee. Action may be taken by the Committee without a meeting if, before or after the action, all members of the Committee consent thereto in writing. The written consent shall be filed with the minutes of the proceedings of the Committee. The members of the Committee may participate in a meeting by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can communicate with each other, and such participation in a meeting shall constitute presence in person at the meeting.

#### **V. RESPONSIBILITIES**

The Committee's primary role is one of oversight. Management is responsible for maintaining the Corporation's books of account and preparing periodic financial statements based thereon. The independent auditor is responsible for auditing the Corporation's annual financial statements. The following are the principal recurring responsibilities of the Committee.

##### **A. Documents, Reports, and Accounting Information Review**

1. The Committee will conduct a review with senior financial management and the independent auditor prior to filing or otherwise releasing or using the Corporation's interim

financial information, any earnings press releases, and the financial information contained in any quarterly reports that the Corporation may file on SEC Form 10-Q, including: (i) the selection, application, and disclosure of the critical accounting policies and practices used; and (ii) any related management certifications. The chairperson of the Committee may represent the Committee for purposes of this review.

2. The Committee will conduct a review of the Corporation's annual financial statements and any other reports or financial information contained in any annual reports on SEC Form 10-K that the Corporation files, including: (i) the selection, application, and disclosure of the critical accounting policies and practices used; (ii) any related management certifications; and (iii) any certification, report, opinion or review rendered by the independent auditor.

3. The Committee will prepare a report of the Committee to the extent required by SEC rules to be included in any proxy statement for the Corporation's annual meeting.

4. The Committee will review any reports submitted by the independent auditor, including a report, if prepared, relating to: (i) all critical accounting policies and practices used; (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 disclosures and treatments, and the treatment preferred by the independent auditor; and (iii) other material written communications between the independent auditor and management, such as any management letter or schedule of unadjusted differences.

5. At least annually, the Committee will obtain and review a report by the independent auditor describing: (i) the independent auditor's internal quality control procedures; (ii) any material issues raised by the most recent internal quality control review, or peer review, of the independent auditor, or by any inquiry or investigation by governmental or professional authorities, within the preceding five (5) years, with respect to one or more independent audits carried out by the independent auditor, and any steps taken to address any such issues; and (iii) all relationships between the independent auditor and the Corporation (to assess the independent auditor's independence).

6. The Committee will review and reassess the adequacy of this charter at least annually, recommend to the Board appropriate changes to the charter, and assure that the charter is either (i) posted on the Corporation's website or (ii) included as an appendix to the annual stockholders' meeting proxy statement at least once every three (3) years, or promptly after any significant amendment to the charter, each only to the extent required by SEC or NASDAQ rules or as otherwise directed by the Board.

7. The Committee will establish and oversee procedures for the receipt, retention, and treatment of complaints regarding accounting, internal accounting controls, or auditing matters, including procedures for confidential, anonymous submissions by Corporation employees regarding questionable accounting or auditing matters.

## **B. Control Processes**

1. The Committee will review with senior financial management and the independent auditor at the completion of the annual audit of the Corporation's consolidated financial statements (and prior to the filing of any annual report on SEC Form 10-K) the following:

a. The Corporation's annual consolidated financial statements and related footnotes;

b. Specific disclosures under "Management's Discussion and Analysis of Financial Condition and Results of Operations;"

c. The independent auditor's audit of the financial statements and their report thereon;

d. Any significant changes required in the independent auditor's audit plan;

e. Any difficulties or disputes with management encountered by the independent auditor during the course of the audit; and

f. Any additional matters related to the conduct of the audit required to be communicated to the Committee under generally accepted auditing standards, including but not limited to the independent auditor's judgment about such matters as the quality (not just the acceptability) of the Corporation's accounting practices.

2. The Committee will review with management certain matters relating to the independent auditor and the internal auditor on a continuing basis, including: (i) the adequacy and integrity of the Corporation's system of auditing and accounting procedures; (ii) the Corporation's financial reporting processes, both internal and external; (iii) the Corporation's system of internal control over financial reporting; (iv) the Corporation's disclosure controls and procedures; (v) the disclosure regarding internal control over financial reporting and disclosure controls and procedures required by applicable SEC rules to be contained in any of the Corporation's periodic reports; and (vi) the attestations and reports relating to such disclosure.

3. The Committee will review with the independent auditor, management, and the internal auditor the appropriateness of accounting principles followed by the Corporation, changes in accounting principles, and their impact on the financial statements.

### **C. Independent Auditor**

1. The Committee is directly responsible for the appointment, compensation, retention, oversight, evaluation, and when appropriate replacement of the registered public accounting firm that serves as the Corporation's independent auditor. The Committee will have the sole authority to engage and remove the independent auditor and to approve all audit engagement fees and terms and all non-audit engagements as may be permissible with the independent auditor. The independent auditor will report directly to the Committee.

2. The Committee will:

a. Oversee and evaluate the work of any independent registered public accounting firm engaged for the purpose of preparing or issuing an audit report or performing other audit, review or attestation services for the Corporation;

b. Review and resolve any disagreements that may arise between management and the independent auditor regarding financial controls or financial reporting;

c. Pre-approve, in accordance with applicable law (including any applicable SEC and NASDAQ rules), all audit and permissible non-audit services provided to the Corporation by the independent auditor. The Committee may delegate this responsibility to one or more members of the Committee, as long as this pre-approval is presented to the full Committee.

3. The Committee will review and discuss with the independent auditor the written independence disclosures required by the applicable requirements of the Public Corporation Accounting Oversight Board.

4. The Committee will review and discuss with the independent auditor on a periodic basis any disclosed relationships or services (including permissible non-audit services) that might impact the independent auditor's objectivity or independence.

5. The Committee will oversee the rotation of the independent auditor's lead audit and concurring partners and the rotation of other audit partners, with applicable time-out periods, in accordance with applicable law regulation or policy.

6. The Committee will review, at least annually, the qualifications, performance and independence of the independent auditor, including a review and evaluation of the lead partner.

7. The Committee will take appropriate action, if any, to ensure the independence of the independent auditor including any hiring policies for employees or former employees of the independent auditor.

8. The Committee will conduct other reviews, as appropriate, to assist in the Committee's oversight of the performance of the independent auditor, including, for example, reviewing the proposed audit plan each year, reviewing the proposed work plans of the independent auditor and internal audit for overlap and coordination, and reviewing comments from prior periods.

9. The Committee will review any reports submitted to the Committee by the independent auditor.

#### **D. Internal Audit**

1. The Committee will review and advise on the selection and removal of the internal audit director.

2. The Committee will review the activities and organizational structure of the internal audit function, as well as the qualifications of its personnel.

3. The Committee will periodically review, with the internal audit director, any significant difficulties, disagreements with management, or scope restrictions encountered in the course of the function's work.

4. The Committee will periodically review, with the independent auditor, the internal audit function's responsibility, budget, and staffing.

5. The Committee will review and discuss with management and the independent auditor the effectiveness of the internal audit function.

#### **E. Legal and Ethical Compliance**

1. The Committee will review periodically with the Nominating and Corporate Governance Committee, management, legal counsel, and other experts, as appropriate, the programs and policies of the Corporation designed to ensure compliance with applicable laws and regulations and with the Corporation's ethical standards, and the results of these compliance efforts, including, but not limited to the Company's Code of Business Conduct and Ethics.

2. The Committee will investigate any reported violations of the Company's Code of Business Conduct and Ethics involving any member of senior management.

2. The Committee will review, investigate, and recommend to the Board actions the Committee deems appropriate to be taken in connection with any matters pertaining to the integrity of the Corporation's executive officers (as determined under Rule 16a-1(f) of the Exchange Act to the extent applicable), including conflicts of interest and adherence to standards of business conduct, as required by the policies of the Corporation.

3. The Committee will review periodically with management, legal counsel, and other experts, as appropriate, any legal and regulatory matters that may have a material impact on the financial statements, including any material inquiries or reports received from regulatory or governmental agencies.

4. The Committee will discuss policies with respect to risk assessment and risk management, including appropriate guidelines and policies to govern the process, as well as the Corporation's major financial risk exposures and the steps management has undertaken to control them.

5. The Committee will consider the risk of management's ability to override the Corporation's internal controls.

6. The Committee will review periodically, procedures for: (i) the receipt, retention and treatment of complaints received by the Corporation regarding accounting, internal accounting controls or auditing matters (ii) the confidential, anonymous submission by employees of the Corporation of concerns regarding questionable accounting or auditing matters and (iii) the confidential, anonymous submission of concerns regarding violations of the Company's Code of Business Conduct and Ethics involving any member of senior management.

#### **F. Other Responsibilities**

1. The Committee will oversee and review periodically with management the Corporation's policies relating to finance, capital expenditures, investment, asset management, information management, and the security of its intellectual and physical assets.

2. The Committee will oversee financial-related risks and the Corporation's enterprise risk management program, including risk assessment, major risk exposures, and the steps management has taken to monitor and mitigate those exposures, but excluding the enterprise risks over which other Board committees have oversight responsibility.

3. The Committee will review with management other finance, tax, legal, or administrative issues that the Committee or the Board deems necessary or appropriate.

4. The Committee will make reports and recommendations to the Board on matters within the scope of its functions.

5. The Committee will review and approve all related-party transactions for which audit committee approval is required by applicable law (including applicable SEC and NASDAQ rules).

6. The Committee will retain and consult with independent counsel and other advisors as it deems necessary or appropriate to carry out its duties, with funding provided by the Corporation.

7. The Committee will assess the effectiveness of the Committee.

8. The Committee will provide an open avenue of communication between the internal auditors, the independent auditor, and the Board.

9. In addition to the activities described in this section, the Committee may perform such other functions as are consistent with its purpose and necessary or appropriate under applicable law, the Corporation's Articles of Incorporation and Bylaws, and the resolutions and other directives of the Board.

## **VI. DELEGATION OF AUTHORITY**

The Committee may delegate to one or more designated members of the Committee the authority to pre-approve audit and permissible non-audit services, provided such pre-approval decision is presented to the full Committee.

## **VII. ANNUAL PERFORMANCE EVALUATION**

The Committee shall perform a review and evaluation, at least annually, of the performance of the Committee and its members, including a review of the compliance of the Committee with this Charter. In addition, the Committee shall review and reassess, at least annually, the adequacy of this Charter and recommend to the Board any improvements to this Charter that the Committee considers necessary or valuable. The Committee shall conduct such evaluations and reviews in such manner as it deems appropriate.