



Charter of the Board of Directors

Fluence Corporation Limited (ACN 127 734 196)

Adopted by the Board of Directors on August 23, 2021

Custodian	Chief Legal Officer and Company Secretary
Next Scheduled Review	August 2023
Legislative Framework and Regulatory Compliance	ASX Corporate Governance Principles and Recommendations (4 th edition)
Regulators	ASX

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CHARTER OF THE BOARD OF DIRECTORS

1. Purpose

- 1.1 This Charter of the Board of Directors of Fluence Corporation Limited sets out the following matters:
- 1.1.1 the roles and responsibilities of the Board of Directors of the Company;
 - 1.1.2 the roles and responsibilities of the Senior Management of the Company; and
 - 1.1.3 the manner of operation of the Board of Directors as a whole.
- 1.2 In adopting this Charter, the Company has followed the ASX Recommendations wherever possible.

2. Definitions

In this Charter:

ASX Recommendations means *ASX Corporate Governance Principles and Recommendations 4th Edition (2019)*;

Board means the Board of the Company;

CEO means the Chief Executive Officer;

CFO means the Chief Financial Officer;

Chairman means the chairman of the Board;

Charter means this Charter of the Board of Directors of the Company;

Company means Fluence Corporation Limited (ACN 127 734 196);

Company Secretary means the secretary of the Company;

Constitution means the Constitution of the Company.

Director means a director of the Company; and

Senior Management means employees of the Company who manage the Company pursuant to the directions and delegations of the Board.

3. Composition of the Board

- 3.1 It is the objective of the Company to establish and maintain a Board with a broad representation of skills, gender, experience and expertise.
- 3.2 To assist in achieving the objective stated above, the Board will at all times consist of:
- 3.2.1 executive and non-executive directors; and
 - 3.2.2 a minimum of three (3) directors.
- 3.3 The members of the Board will be listed in the Annual Report of the Company.
- 3.4 Independence

In accordance with the ASX Recommendations, the Board considers a Director to be independent if the Director is free of any interest, relationship or association that may materially influence, or may reasonably be perceived to materially influence, the Director's capacity to exercise their independent judgment on issues before the Board, and to act in the best interests of the Company and its shareholders.

Examples of interests, positions and relationships that might raise issues about the independence of a Director are set out below. Where a Director falls within one (1) or more of these examples, the Board should rule the Director not to be independent unless it is clear that the interest, position or relationship in question is not material and will not interfere with the Director's capacity to bring an independent judgement to bear on issues before the Board and to act in the best interests of the Company as a whole rather than in the interests of an individual security holder or other party.

- 3.4.1 is or has been employed in an executive capacity by the Company or an affiliate or subsidiary of the Company within the last three (3) years before becoming a Director;
- 3.4.2 receives performance-based remuneration (including options or performance rights) from, or participates in an employee incentive scheme of, the Company;
- 3.4.3 is, represents, or is or has been within the last (3) three years an officer or employee of, or professional adviser to, a substantial security holder of the Company;
- 3.4.4 is, or has been within the last three (3) years has been, a senior employee, partner or director of a provider of material professional services to the Company or an affiliate or subsidiary of the Company;
- 3.4.5 within the last three (3) years, has been in a material business relationship (eg as a supplier, professional adviser, consultant or customer) with the Company or any an affiliate or subsidiary of the Company or is and officer of, or an associate to, someone with such a relationship;
- 3.4.6 has served on the Board for a period of time which may materially interfere with that Director's motivation to act in the best interests of the Company;
- 3.4.7 has close family ties with any person who falls within any of the categories described in clauses 3.4.1 to 3.4.5 above; and
- 3.4.8 is not free from any conflict of interest which may materially interfere with that Director's motivation to act in the best interest of the Company.

The Board will consider the materiality of the Director's interests, position, association or relationship for the purposes of determining "independence" on a case-by-case basis, having regard to quantitative and qualitative principles. Without limiting the Board's discretion in this regard, the Board has adopted the following guidelines:

- a. the Board will determine the appropriate base to apply (eg revenue, equity or expenses) in the context of each situation;
- b. in general, the Board will consider a holding of 5% or more of the Company's shares to be material;
- c. in general, the Board will consider an affiliation with a business which accounts for less than 5% of the relevant base to be immaterial for the purposes of determining independence. However, where this threshold is exceeded, the materiality of the particular circumstance with respect to the independence of the particular Director should be reviewed by the Board; and

- d. overriding the quantitative assessment is the qualitative assessment. Specifically, the Board will consider whether there are any factors or considerations which may mean that the Director's interest, business or relationship could, or could reasonably be perceived to, materially interfere with the Director's ability to act independently.

3.5 The Board shall review the independence of each non-executive Director on an annual basis, having regard to the guidelines set out in clause 3.4 above.

3.6 If a Director ceases, or may have ceased to be independent, the Director shall advise the Chairman of the Board immediately, and, if the Board finds that a Director is no longer independent, the Board shall immediately announce this to the market.

3.7 The Board shall state whether a non-executive Director is independent or not, and if not, the reasons for such opinion, in the Company's annual report.

4. Appointment of Directors

4.1 Directors are appointed in accordance with the Constitution. The Board will review and assess the suitability of new Directors against a range of criteria, which include overall skills, experience and background, diversity, professional skills, potential conflicts of interest, ability to exercise independent judgment and whether such director can be considered to be independent.

4.2 The Company shall undertake appropriate checks before appointing a Director or putting forward to security holders a candidate for election as a Director;

4.3 The Board will set out the terms and conditions of the appointment of a Director in a formal letter of appointment.

4.4 New Directors will be provided with a copy of the Constitution and all relevant policies of the Board.

4.5 New Directors will be fully briefed with respect to the strategic direction of the Company.

4.6 Directors will be offered regular opportunities for professional development.

4.7 The Company will provide security holders of the Company with all material information in the Company's possession which is relevant to a decision on whether to elect or re-elect a Director.

5. Responsibilities of the Board

5.1. The Board is ultimately responsible for the overall management, corporate governance and performance of the Company.

5.2. The Board has the authority to make decisions and give directions in relation to:

5.2.1. the development, implementation and alteration of the strategic direction of the Company, including future changes to the scale of the Company's business activities;

5.2.2. satisfying itself that the Company has in place an appropriate risk management framework (for both financial and non-financial risks) and setting the risk appetite within which the Board expects Senior Management to operate;

5.2.3. ensuring appropriate external reporting to shareholders, the ASX, ASIC, investment community and other stakeholders;

- 5.2.4. promoting the Company culture including instilling the Company's values, encouraging ethical behaviour, and promoting compliance with the Company's governing laws, procedures and corporate governance standards;
 - 5.2.5. satisfying itself that an appropriate Company-wide reporting framework and supporting internal controls exist for relevant information to be reported by Senior Management to the Board; and
 - 5.2.6. setting out the terms and conditions of the employment contract of a Senior Manager in relation to their appointment.
- 5.3. The Board is responsible for monitoring organisational capability in the context of executing the Board endorsed strategy, business plans and cultural objectives.
- 5.4. The Board has responsibility for the following specific matters:
- 5.4.1 approving the Company's statement of values and strategy;
 - 5.4.2 the appointment and removal of the Chairman of the Company, with the intention that this position should preferably be an independent, non-executive director, and ordinarily not the same person as the CEO (in the event the Chairman and CEO are the same person, a lead independent Director shall be appointed);
 - 5.4.3 the appointment of new Directors;
 - 5.4.4 the appointment, and where appropriate, the removal of the:
 - a. CEO;
 - b. CFO;
 - c. Executive Directors;
 - d. At least one (1) Company Secretary; and
 - e. Ratifying the appointment or removal of other Senior Management of the Company.
 - 5.4.5 oversight of all responsibilities delegated to Senior Management;
 - 5.4.6 reviewing the performance of the Managing Director & CEO and monitoring the performance of his or her direct reports at least annually;
 - 5.4.7 managing succession planning for the position of Managing Director & CEO and overseeing succession planning for his or her direct reports;
 - 5.4.8 satisfying itself that the Company's remuneration policies are aligned with the Company's vision, values, culture, strategic objectives and risk appetite;
 - 5.4.9 approving executive Director and Senior Management executive remuneration, including fixed and variable remuneration, performance hurdles and evaluating annual performance;
 - 5.4.10 approving whole of Company remuneration design, benchmarks and any annual CPI increases;

- 5.4.11 ensuring the Code of Conduct, the Communication and Disclosure Policy, the Securities Trading Policy, the Diversity Policy, the Risk Management Policy, Remuneration Policy and other Board-endorsed policies meet the expectations of good governance as published by the Australian Securities Exchange from time to time, and are being complied with;
 - 5.4.12 regular reviewing the effectiveness of all Board-endorsed policies;
 - 5.4.13 overseeing compliance with ASX Listing Rules, the Australian Corporations Act and other applicable legislation in jurisdictions where the Company operates, including financial and non-financial reporting obligations, continuous disclosure rules, legal compliance and related corporate governance matters;
 - 5.4.14 approving and monitoring material capital expenditure, acquisitions and divestitures and material contracts;
 - 5.4.15 approving and monitoring Company capital management including equity structures, sources of finance, material debts and incurring material debt obligations;
 - 5.4.16 proposing and recommending to shareholders any changes in the capital structure of the Company;
 - 5.4.17 approving any employment contract terms and conditions relating to the appointment of a Senior Manager;
 - 5.4.18 regularly monitoring and reviewing the financial performance of the Company; and
 - 5.4.19 monitoring and reviewing the operational performance of the Company including the viability of current and prospective operations and R&D opportunities.
- 5.5. The Board may, in its absolute discretion, and without abrogating its responsibilities, delegate matters to Senior Management from time to time.

6. Allocation of Responsibilities

- 6.1 The Chairman is responsible for the leadership, performance and effectiveness of the Board, and, together with the CEO, has shared responsibility for the leadership and performance of the Company. The Chairman role includes the following responsibilities:
- 6.1.1 the organisation and efficient conduct of the business of the Board at Board meetings and on all other occasions;
 - 6.1.2 ensuring all Directors are adequately informed about Board matters in a timely fashion to facilitate considered and effective decision making in all business of the Board;
 - 6.1.3 setting the agenda for meetings of the Board, guiding the meetings to facilitate open discussion and managing the conduct of, and frequency and length of such meetings, in order to provide the Board with an opportunity to arrive at a detailed understanding of the Company's performance, financial position, operations and challenges;
 - 6.1.4 liaising with the Company Secretary and Chief Legal Officer concerning matters of corporate governance and conveying applicable information to the Board;
 - 6.1.5 ensuring engagement and compliance by Board members with their duties as Directors;

- 6.1.6 ensuring that each Director is empowered to fully participate in meetings and is properly informed of Director performance expectations; and
 - 6.1.7 engaging with major shareholders and stakeholders of the Company to ensure that their views are known to the Board.
- 6.2 The CEO of the Company is responsible for the execution of Board strategy and overall responsibility for the performance of the Company. The CEO role includes the following responsibilities:
- 6.2.1 recommending to the Board for review and approval the Company strategy and strategic framework and subsequent execution of Board-endorsed strategies and strategic frameworks;
 - 6.2.2 recommending to the Board for review and approval a three-year strategic business plan, and annual budget for the first year of the strategic business plan including the setting of key objectives and deliverables consistent with the Board-endorsed strategy;
 - 6.2.3 recruiting, developing and managing appropriately skilled Senior Management as well as implementing appropriate systems and processes to execute the plans of the Company;
 - 6.2.4 managing the Company in accordance with the directions and delegations of the Board;
 - 6.2.5 reporting to the Board in a timely fashion all material matters concerning the finances and operations of the Company;
 - 6.2.6 coordinating the roles and responsibilities of the management and employees of the Company to achieve the goals set by the Board;
 - 6.2.7 carrying out the day-to-day management of the Company;
 - 6.2.8 in consultation with the Company's Senior Management, establishing and implementing management policies and procedures to:
 - a. achieve the strategic, financial and operational goals set by the Board;
 - b. enable and ensure the Company's compliance with material contracts, legal and regulatory requirements
 - c. ensure conduct is materially consistent with the Code of Conduct of the Company and the jurisdictions where the Company operates;
 - d. build and maintain employee satisfaction and well-being; and
 - e. build and maintain a staff identity and allegiance to the Company based on shared values and culture.
- 6.3 The Company Secretary, who is accountable to the Board, through the Chairman, has the following responsibilities on all matters to do with the proper functioning of the Board:
- 6.3.1 The adoption and implementation of corporate governance practices;
 - 6.3.2 Scheduling, coordinating and planning of the Board and its Committees;
 - 6.3.3 Monitoring the corporate policies and procedures of the Board;

6.3.4 The accurate reporting of the business of the Board including the timely dispatch of Board agendas and briefing papers and the accurate recording and timely despatch of the minutes of the Board; In conjunction with the Chief Legal Officer:

- a. Advising the Board of the corporate governance policies of the Company;
- b. Ensuring that each director has access to the Company Secretary and legal advice as required;
- c. Ensuring compliance with ASX Listing Rules, the Australian Corporations Act and other statutory regulations applicable to the Board and the Company;
- d. In particular, in conjunction with the Chair and CEO, determining whether information should be disclosed to the ASX;
- e. Liaising with the ASX in respect of Company announcements and compliance with ASX Listing Rules; and
- f. Complying with ASIC requirements for statutory filings.

7. Board Meetings

- 7.1 At least half of the appointed Directors must be present at a meeting to constitute a quorum.
- 7.2 The Board will meet no fewer than six (6) times each financial year and may meet as often as required to fulfil their duties.
- 7.3 Board papers are to be provided to all proposed attendees of Board meetings no fewer than three (3) business days before the date of each Board meeting.
- 7.4 Directors are expected to familiarise themselves with the content of the Board papers and be well prepared for each Board meeting.
- 7.5 Minutes of each Board meeting shall be prepared by the Company Secretary and Chief Legal Officer, approved by the Chair and circulated to Directors after each meeting.
- 7.6 Minutes of Board meetings must be approved at the next regular Board meeting.
- 7.7 Each Director has an obligation at Board meetings and concerning the Company generally, to reach decisions which he or she believes to be in the best interests of the Company, free of any actual or possible personal or other business-related conflict of interest.
- 7.8 At the commencement of each meeting, each Board member must disclose any actual or potential conflicts of interest. Ongoing conflicts of interest need not be disclosed at each meeting once acknowledged.
- 7.9 Where members are deemed to have a real or perceived conflict of interest, they will be excused from discussion on the issue where a conflict may, or actually exists.

8. Board Committees and Corporate Governance

- 8.1 To assist in the execution of its duties, as of the date of this Charter, the Board has established an Audit and Risk Committee and a Remuneration and Nomination Committee (each a **Committee** and collectively, the **Committees**)..

- 8.2 The Board has adopted a separate charter for each Committee setting out the respective matters concerning their particular composition and responsibilities.
- 8.3 Committee charters are approved by the Board and reviewed periodically.
- 8.4 Members of Committees are appointed by the Board. The Board may appoint additional Directors to Committees or remove and replace members of Committees by resolution.
- 8.5 In addition to this Charter the Board has also adopted the following governing documents in the interest of best practice in corporate governance and to guide and assist the Company in the pursuit of its values and the achievement of its goals:
 - 8.5.1 Code of Conduct;
 - 8.5.2 Securities Trading Policy;
 - 8.5.3 Audit and Risk Committee Charter;
 - 8.5.4 Remuneration and Nomination Charter;
 - 8.5.5 Continuous Disclosure Policy;
 - 8.5.6 Anti-Bribery and Anti-Corruption Policy;
 - 8.5.7 Diversity Policy; and
 - 8.5.8 Modern Slavery Policy.

The Board reserves the right to implement other governing documents as may be required.

- 8.6 The Board will review the policies and the Committee structure annually to ensure that the composition of the Board and each Committees are appropriate for the needs of the Company and reflect the values of the Company.
- 8.7 The Board may also establish ad-hoc special purpose committees for time to time, with terms of reference approved by the Board.

9. Performance Evaluation

- 9.1. The Board shall develop and disclose a process for periodically evaluating the performance of the Board, the Committees and individual Directors, and disclose, in relation to each reporting period, whether a performance evaluation was undertaken.
- 9.2. The Board shall monitor and evaluate the performance of Executive Director and Senior Management in achieving the strategies and budgets set by the Board, and, where appropriate, may seek advice from the Remuneration Committee.
- 9.3. The Board shall approve non-executive director remuneration, Executive Director and Senior Management remuneration including any incentive or employee equity plans.

10. Corporate Governance

- 10.1. The Board shall encourage ethical behaviour and compliance consistent with the Company's values, policies and procedures, including the Company's Securities Trading Policy, Continuous Disclosure Policy, Anti-Bribery and Anti-Corruption Policy and Code of Conduct.
- 10.2. The Board shall at least annually review the Company's compliance with corporate governance standards and disclose, and report on corporate governance compliance in accordance with ASX Listing Rules.

11. Diversity

- 11.1. The Board shall approve the Company's Diversity Policy and set measurable objectives to encourage diversity (including, but not limited to, gender diversity) in the composition of its Board, senior management and the workforce generally.
- 11.2. The Board, with the Remuneration and Nomination Committee, shall annually review and disclose, for each reporting period, the measurable objectives set for that period to achieve gender diversity, the Company's progress in achieving those objectives, and the respective proportions of men and women on the Board, in senior executive positions and across the whole workforce (including how the entity has defined "senior executive" for these purposes);

12. Code of Conduct

- 12.1. All Directors are bound by, and expected to show leadership in conforming to, the Company's Code of Conduct.

13. Director Development

- 13.1. The Company is committed to the continuing development of its Directors and executives. There is an expectation that all Directors and Senior Management will commit to such professional development as may be required to remain up to date with the expectations and obligations of their respective roles and sufficient to retain their respective professional memberships. The Board will allocate an appropriate budget for this purpose to encourage Directors to participate in training and development programs. Any Director wishing to undertake either specific directorial training or personal development courses is expected to approach the Chairman for approval of the proposed course. Development may be in governance, strategy or other disciplines relevant to their role.

14. Director Induction

- 14.1. New Directors will undergo an induction process in which they will be given a full briefing on the Company. This will include meeting with Senior Management, an induction package, Company presentations and where practicable, visits to company operations. Information conveyed to each new Director will include:
 - 14.1.1. details of the roles and responsibilities of a Director with an outline of the qualities required to be a successful Director;
 - 14.1.2. formal policies on Director appointment as well as conduct and contribution expectations;
 - 14.1.3. details of key relevant legal requirements including Australian Corporations Act, ASX Listing Rules and other relevant statutory bodies.
 - 14.1.4. a copy of this Charter;

- 14.1.5. guidelines on how the Board functions;
- 14.1.6. details of past, recent and likely future developments relating to the Board including anticipated regulatory changes;
- 14.1.7. background information on and contact information for key people in the Company including an outline of their roles and capabilities;
- 14.1.8. a current industry, business, financial and risk overview of the Company;
- 14.1.9. a synopsis of the current strategic direction of the Company including a copy of the current strategic plan and annual budget;
- 14.1.10. a copy of the Constitution of the Company;
- 14.1.11. copies of key corporate policies and procedures (including expense reimbursement); and
- 14.1.12. Directors' Deed of Access, Indemnity and Insurance.

15. Independence Advice

- 15.1. Any Director is entitled to seek independent professional advice at the Company's expense on any matter connected with the discharge of his or her responsibilities, provided the Director:
 - 15.1.1. first provides the Chairman with details of the nature of and reasons for the professional advice sought, the likely cost of seeking such independent professional advice and the details of the independent adviser he or she proposes to instruct;
 - 15.1.2. The Chairman must approve of the independent adviser nominated by the Director, failing in which the Director may seek approval from the Board;
 - 15.1.3. The Chairman may prescribe a reasonable limit on the amount that the Company shall contribute towards the cost of obtaining the advice;
 - 15.1.4. All documentation containing or seeking independent professional advice must clearly state that the advice is sought in relation to the Company and/or the Director in his or her capacity as a Director;
- 15.2. The Chairman shall decide if any advice received by an individual Director will be circulated to the remainder of the Board.

16. Charter Review

- 16.2. Any changes to the Charter require approval of the Board. The Board will review the effectiveness of the Charter at least once every two (2) years.