

## **LIVEPERSON, INC.**

### **AUDIT COMMITTEE CHARTER**

#### **Purpose**

The Audit Committee is appointed by the Company's Board of Directors (the "Board") to assist the Board in monitoring (1) the integrity of the financial statements of the Company, (2) the Company's compliance with legal and regulatory requirements, (3) the independent auditor's qualifications and independence, and (4) the performance of the Company's internal audit function (if any) and independent auditors.

The Audit Committee shall prepare the report required by the rules of the Securities and Exchange Commission (the "SEC") to be included in the Company's proxy statement for its annual meeting of stockholders.

#### **Committee Membership**

The Audit Committee shall consist of no fewer than three members. Each member of the Audit Committee shall be a member of the Board and shall satisfy the independence and experience requirements of The NASDAQ Stock Market, Section 10A(m)(3) of the Securities Exchange Act of 1934 (the "Exchange Act"), and all rules and regulations promulgated by the SEC. Each member of the Audit Committee shall be able to read and understand fundamental financial statements, including the Company's balance sheet, income statement and cash flow statement, as determined by the Board in its business judgment. In addition, at least one member of the Audit Committee shall have past employment experience in finance or accounting, requisite professional certification in accounting, or any other comparable experience or background which results in the member's financial sophistication, including being or having been a chief executive officer, chief financial officer or other senior officer with financial oversight responsibilities, all as determined by the Board in its business judgment, and at least one member of the Audit Committee (who may be the same person) shall be a "financial expert" (as defined by the SEC). No member of the Audit Committee may participate in the preparation of the financial statements of the Company or any current subsidiary of the Company, or have so participated in the three years prior to joining the Audit Committee.

The members of the Audit Committee shall be appointed by the Board. Audit Committee members may be replaced by the Board. The Board shall designate one member of the Audit Committee as its Chairperson.

#### **Committee Rules of Procedure**

The Audit Committee shall meet as often as it determines, but not less frequently than quarterly. Special meetings may be convened as the Audit Committee deems necessary or appropriate.

A majority of the members of the Audit Committee shall constitute a quorum to transact business. Members of the Audit Committee may participate in a meeting of the Committee by means of telephone conference call or similar communications equipment by means of which all

persons participating in the meeting can hear each other. Except in extraordinary circumstances as determined by the Chairperson of the Audit Committee, notice shall be delivered to all Committee members at least 48 hours in advance of the scheduled meeting. Minutes of each meeting will be kept and distributed to the entire Board.

The affirmative vote of a majority of the members of the Audit Committee present at the time of such vote will be required to approve any action of the Committee. Subject to the requirements of any applicable law, regulation or Nasdaq Stock Market rule, any action required or permitted to be taken at a meeting of the Audit Committee may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the members of the Committee. Such written consent shall have the same force as a unanimous vote of the Audit Committee.

### **Committee Authority and Responsibilities**

The Audit Committee shall be directly responsible for the appointment, compensation, oversight, termination and replacement of the Company's independent auditor (subject, if applicable, to stockholder ratification), and shall have the sole authority to approve all audit engagement fees and terms and all non-audit engagements with the independent auditors.

The Audit Committee shall approve all audit and non-audit engagements of the Company's independent auditors in advance. The Audit Committee may delegate to one or more of its members who are independent directors on the Board the authority to approve the performance of audit and non-audit services by the Company's independent auditors (a "Sub-Committee"). Any decision by a Sub-Committee shall be presented to the full Audit Committee at its next scheduled meeting. Neither the Audit Committee nor any Sub-Committee shall approve any engagements of the Company's outside auditors with respect to those services set forth in Section 10A(g)(1) through (9) of the Exchange Act. In the event the Audit Committee or any Sub-Committee approves any non-audit services by the Company's independent auditors, such approval shall be disclosed in periodic reports required by Section 13(a) of the Exchange Act. The pre-approval requirement is not applicable with respect to the provision of non-audit services by the Company's outside auditors where (i) such services were not recognized by the Company at the time of the engagement to be non-audit services, (ii) the aggregate amount of all such non-audit services provided to the Company constitutes not more than 5% of the total amount paid by the Company to the Company's independent auditors during the fiscal year in which the non-audit services are provided and (iii) such services are promptly brought to the attention of the Audit Committee and approved prior to the completion of the audit by the Committee or a Sub-Committee.

The Audit Committee shall have the authority, to the extent it deems necessary or appropriate to carry out its responsibilities, to retain at the expense of the Company special legal, accounting or other consultants to advise the Committee. The Audit Committee shall have the sole authority to approve all fees and terms of engagement of such advisors.

The Audit Committee may designate any member of the Committee to execute documents on its behalf as it deems necessary or appropriate to carry out its responsibilities hereunder. Except as provided above with regard to the independent auditor, the Audit Committee may form and delegate authority to subcommittees to the extent the Committee deems necessary or appropriate.

The Audit Committee may request any officer or employee of the Company or the Company's outside counsel or independent auditor to attend a meeting of the Committee or to meet with any member of, or consultants to, the Committee. The Audit Committee shall meet with management, the internal auditors (or other personnel responsible for the internal audit function), if any, and the independent auditor in separate executive sessions as often as the Committee determines. The Audit Committee may also, to the extent the Committee deems necessary or appropriate, meet with the Company's investment bankers or any financial analysts who follow the Company.

The Audit Committee shall make regular reports to the Board and shall review with the Board any issues that arise with respect to (i) the quality or integrity of the Company's financial statements, (ii) the Company's compliance with legal or regulatory requirements that may have a material impact on the Company's financial statements, (iii) the performance and independence of the Company's independent auditors or (iv) the performance of the internal audit function, if any. In addition, the Audit Committee annually shall review its own performance.

The Audit Committee shall review and reassess the adequacy of this Charter annually and recommend any proposed change to the Board for its approval. This Charter is in all respects subject and subordinate to the Company's Certificate of Incorporation and by-laws and the applicable provisions of the General Corporation Law of the State of Delaware.

In addition to the foregoing, the Audit Committee, to the extent it deems necessary or appropriate, shall:

#### Financial Statement and Disclosure Matters

1. Review and discuss with management and the independent auditor the Company's annual audited financial statements, including the disclosures made under "Management's Discussion and Analysis of Financial Condition and Results of Operation," and determine whether to recommend to the Board that the audited financial statements should be included in the Company's Annual Report on Form 10-K.
2. Review and discuss with management and the independent auditor the Company's quarterly financial statements, including the results of the independent auditor's review of the quarterly financial statements.
3. Discuss with management and the independent auditor, and resolve any disagreements between management and the independent auditor with respect to, significant financial reporting issues and judgments made in connection with the preparation of the Company's financial statements.
4. Review and discuss with management and the independent auditor any report of the independent auditor regarding (a) all critical accounting policies and practices to be used by the independent auditor, (b) alternative treatments of financial information within generally accepted accounting principles ("GAAP") that have been discussed with management, ramifications of the use of such alternative disclosures and treatments, and the treatment preferred by the independent auditor, or (c) any other material written

communications between the independent auditor and management, including any management letter or schedule of unadjusted differences.

5. Review and discuss with management and the independent auditor (a) major issues regarding accounting principles and financial statement presentations, including any significant changes in the Company's selection of application of accounting principles, and major issues as to the adequacy of the Company's internal controls and any special audit steps adopted in light of material control deficiencies, (b) analyses prepared by management and/or the independent auditor setting forth significant financial reporting issues and judgments made in connection with the preparation of the Company's financial statements, including analyses of the effect of alternative GAAP methods on the financial statements, (c) the types of information to be disclosed and the types of presentation to be made relating to earning press releases, as well as other financial information and earnings guidance provided to analysts and rating agencies, and (d) the effect of regulatory and accounting initiatives, as well as off-balance sheet structures, on the Company's financial statements.
6. Discuss with management the Company's major financial risk exposures and the steps management has taken to monitor and control such exposures, including the guidelines and policies to govern the process by which risk assessment and risk management are undertaken.
7. Review legal and regulatory matters that may have a material impact on the Company's financial statements, and all related compliance policies and programs. Discuss with management and the independent auditor any correspondence with regulators or governmental agencies and any employee complaints or published reports which raise material issues regarding the Company's financial statements or accounting policies. Discuss with the Company's counsel any legal matters that may have a material impact on the Company's financial statements. Assist the Board in monitoring the compliance by the Company with other legal and regulatory requirements.
8. Discuss with the independent auditor the matters required to be discussed by Statement on Auditing Standards No. 61 relating to the conduct of the audit. In particular, discuss:
  - (a) the adoption of, or changes to, the Company's significant auditing and accounting principles and practices as suggest by the independent auditor, internal auditors, if any, or management;
  - (b) the management letter provided by the independent auditor and the Company's response to that letter; and
  - (c) any audit problems or difficulties encountered in the course of the audit work, including any restrictions on the scope of activities or on access to requested information.
9. Review the annual internal control report prepared or issued by the Company's management, and the independent auditor's attestation of such report, and report to the

Board any concerns about management's internal control report, or its inclusion in the Company's Annual Report on Form 10-K.

#### Oversight of the Company's Relationship with the Independent Auditor

10. Review and evaluate the experience and qualifications of the lead partner of the independent auditor team.
11. Obtain and review a report from the independent auditor at least annually regarding (a) the firm's internal quality-control procedures, (b) any material issues raised by the most recent quality-control review, or peer review, of the firm, or by any inquiry or investigation by governmental or professional authorities within the preceding five years, respecting one or more independent audits carried out by the firm, (c) (to assess the auditor's independence) all relationships between the independent auditor and its related entities and the Company and its related entities, and (c) any steps taken to deal with any such issues. The Audit Committee shall require the independent auditor to confirm that the report in all respects satisfies the requirements of Independence Standards Board Standard No. 1. Discuss the report with the independent auditor, and evaluate the qualifications, performance and independence of the independent auditor, including considering whether the auditor's quality controls are adequate and the provision of non-audit services is compatible with maintaining the auditor's independence, and taking into account the opinions of management and the internal auditor, if any. The Audit Committee shall present its conclusions to the Board and if so determined by the Audit Committee, recommend that the Board take additional action to satisfy itself of the qualifications, performance and independence of the auditor.
12. Consider when, in order to comply with Section 10A(j) of the Exchange Act and to assure continuing auditor independence, to rotate the lead audit partner, the audit partner responsible for reviewing the audit or the independent auditing firm itself.
13. Establish policies for the Company's hiring of employees or former employees of the independent auditor who were engaged on the Company's account. Review the experience and qualifications of the senior management of the Company to ensure that none of them has a relationship with the independent auditor that would compromise the auditor's independence or otherwise cause the Company or the independent auditor to be in violation of Section 10A(l) of the Exchange Act.
14. Obtain assurance from the independent auditor that each audit of the Company's financial statements has complied with the requirements of Section 10A of the Exchange Act.
15. Discuss with the independent auditor the planning and staffing of the audit.

#### Oversight of the Company's Internal Audit Function

16. If the Company determines to maintain an internal audit function, review the appointment and replacement of the senior internal auditing executive or selection and retention of the person or entity to which the internal auditing function is out-sourced.

17. If the Company determines to maintain an internal audit function, review the significant reports to management prepared by the internal auditing department and management's responses.
18. If the Company determines to maintain an internal audit function, discuss with the independent auditor the Company's internal audit department (or contracted outside internal auditor's) responsibilities, budget and staffing and any recommended changes in the planned scope of the internal audit.

#### Other

19. Establish and review periodically procedures for (a) the receipt, retention and treatment of complaints received by the Company regarding accounting, internal accounting controls or auditing matters and (b) the confidential, anonymous submission by employees of the Company of concerns regarding questionable accounting or auditing matters. The procedures established pursuant to this paragraph should also be made available for use by persons making reports under the Company's Code of Conduct or Whistleblower Policy.
20. Approve the Company's transactions with directors, executive officers, major stockholders and firms that employ directors, as well as any other material related party transactions, that are identified by the Company in a periodic review of such transactions.

In addition to the activities described above, the Audit Committee will perform such other functions as are necessary or appropriate in its opinion under applicable law, the Company's Certificate of Incorporation and by-laws, and the resolutions and other directives of the Board, including, without limitation, the Company's Code of Ethics for the Chief Executive Officer and Senior Financial Officers, Code of Conduct and Whistleblower Policy. This Charter may be amended from time to time by the Board.

#### **Limitation of Audit Committee Role**

While the Audit Committee has the responsibilities and powers set forth in this Charter, it is not the duty of the Audit Committee to plan or conduct audits or to determine that the Company's financial statements and disclosures are complete and accurate, fairly present the information shown or are in accordance with GAAP and applicable rules and regulations. These are the responsibilities of management and the independent auditor. Nor is it the duty of the Audit Committee to conduct investigations or to assure compliance with any law, regulation or Nasdaq Stock Market rule, or the Company's Code of Ethics for the Chief Executive Officer and Senior Financial Officers, Code of Conduct or Whistleblower Policy.

Date: April 22, 2004