



HeartWare Limited

ACN 111 970 257

Board of Directors Charter

(Consolidated as at 30 September 2008)

HeartWare Limited

Board of Directors Charter

1. Purpose

The Board of Directors Charter for HeartWare Limited (“HeartWare” or “the Company”) sets out the role, functions and responsibilities of the Board of Directors (“the Board”). The Board is also subject to the provisions of the Company’s Constitution as well as other policies and procedures published by the Board from time-to-time (e.g. Code of Conduct etc.).

2. Role

The Board is the governing body of the Company.

The Board acts within a statutory framework – principally the *Corporations Act* and the ASX Listing Rules – and also in accordance with the Constitution of HeartWare. Subject to this statutory framework, the Board has the authority and the responsibility to perform the functions, determine the policies and control the affairs of the Company.

The primary role of the Board is to provide effective governance over the affairs of HeartWare and its controlled entities (“the HeartWare Group”) so that the interests of all stakeholders are protected. Details of the Board’s functions and powers are set out at Point 7 below.

“Stakeholders” refers to shareholders, employees, customers, suppliers and local communities.

3. Composition of the Board

3.1 Overview

Under the Constitution, the Board must comprise at least 3 Directors. At least 2 Directors must ordinarily reside in Australia.

A majority of the Board of Directors must be “independent” (see Point 3.3. below).

The non-executive Directors are appointed by the Board and approved by Shareholders in accordance with the Constitution. Directors can also be appointed by Shareholders in a duly convened meeting of the Shareholders of the Company.

There is no maximum age for Directors. The Board should comprise Directors with a broad range of skills and experience. The Board should have enough Directors to serve on various committees of the Board without overburdening the Directors or making it difficult for them to fully discharge their responsibilities.

The Directors holding office at the date of this document are as follows:

Doug Godshall	CEO and Executive Director
Robert Thomas (Independent)	Non Executive Chairman
Dr Christine Bennett (Independent)	Non Executive Director
Dr Denis Wade (Independent)	Non Executive Director
Dr Seth Harrison	Non Executive Director
Tim Barberich	Non Executive Director
Bob Stockman	Non Executive Director

Directors are appointed for terms not exceeding three years but are eligible for reappointment. At each Annual General Meeting of the Company, one-third of the Directors are subject to retirement by rotation. In addition, no Director (other than the Managing Director (if any)) may retain office for more than three years or until the third Annual General Meeting following their appointment (whichever is the longer).

The Board has also convened two committees to enhance governance. Firstly, the Board has convened the Audit & Compliance Committee (see the Audit Committee Charter) and the Continuous Disclosure Committee (see the Company's Communications Policy). The Charters of each committee have been approved by the full Board, and committee minutes are provided expeditiously to all Directors.

3.2 Chairman

The Chairman of the Board shall be:

- (a) elected by Directors;
- (b) a non-executive Director; and
- (c) independent (in accordance with the definition referred to below).

3.3 Definition of "independent director"

An independent director is defined by the Board as being a Director who is not a member of management (a non-executive director) and who:

- (a) is not a substantial shareholder of the Company (in accordance with the definition set out in Section 9 of the *Corporations Act*);
- (b) has not within the last three years 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;
- (c) has no material contractual relationship with the Company or another group member other than as a Director;
- (d) has not within the last three years been employed in an executive capacity by the Company or another group member, or been a Director after ceasing to hold any such employment; and
- (e) is free of 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.

4 Meetings of the Board

The Board shall meet as often as deemed necessary by the Directors in order to fulfil their duties and responsibilities as Directors and as dictated by the needs of the business. It is expected that, generally speaking, the Board shall meet at least once per month.

A meeting of the Board can be convened by the Chairman, the Chief Executive Officer or a majority of the Board.

In addition to the above, the non-executive Directors of the Board will meet at least twice per year without the presence of executive directors. This meeting shall be convened for the purposes of discussing matters concerning the Company's executive management.

A quorum shall consist of a majority of Board members unless the Board comprises an even number of Directors then the quorum shall be half that number.

5 Conflicts of interest

Directors must keep the Board advised, on an ongoing basis, of any interest that could potentially conflict with those of the Company.

If any matter is to be discussed at a meeting of the Board which would involve one or more Directors having a material conflict of interest, then those Directors will:

- (a) declare that conflict of interest;
- (b) not receive the relevant papers;
- (c) not be present at the meeting whilst the matter is considered; and
- (d) not participate in any decision on the matter or be informed the decision has been taken.

6. Advice

The Board collectively and each Director individually may take, at the Company's expense, such independent professional advice as is considered necessary to fulfil their relevant duties and responsibilities.

Individual Board members seeking such advice must obtain the approval of the Chairman (which may not be unreasonably withheld) and the advice will be made available to all Board members as appropriate.

7 The Board of Directors

7.1 Functions

- (a) Oversee the conduct of the Company's business, including setting the goals and objectives for the Company.
- (b) Ensure compliance with all statutory requirements and with self-imposed standards. This includes conducting the meetings of Directors and the Board committees and the affairs of the HeartWare Group whilst having full regard for best corporate governance practices including the ASX Principles of Good Corporate Governance and Best Practice Recommendations.
- (c) Approve the strategic direction and related objectives for the HeartWare Group.
- (d) Consider and, if appropriate, approve the HeartWare Group's business plans, annual budget and financial objectives as proposed by management. This includes agreeing with management appropriate performance indicators and monitor performance against those indicators and against the plans and budgets.
- (e) Take steps to protect the Company's financial position and its ability to pay its debts as and when they fall due for payment.
- (f) Ensure business risks are identified and approve systems of risk management, regulatory compliance and control and associated policies to manage those risks. This includes

monitoring management's implementation of, and compliance with, these systems and controls.

- (g) Ensure open and proper communication between the Company and its stakeholders.
- (h) Review the Board's own processes and performance and composition and adopt processes for the nomination of new Directors and the retirement of Directors.
- (i) Select, appoint, regularly assess the performance of, determine the remuneration of and plan for the succession of, the Chief Executive Officer and the Chief Financial Officer and put in place clearly defined delegations of powers to those executives to enable them to carry out their responsibilities.

7.2 Powers

- (a) Monitor the management of the Company's business.
- (b) Provide advice, counsel and instruction to the Chief Executive Officer.
- (c) Instruct and review actions and recommendations of the various committees of the Board.
- (d) Act in all other matters affecting the Company which do not require shareholder approval.
- (e) Approve strategy, business plans and budgets.
- (f) Appoint a Chair who will lead the Board in its responsibilities.
- (g) Meet, from time-to-time, without management being present.
- (h) Appoint or remove the Chief Executive Officer.

[Updated and approved by the Board of Directors of HeartWare Limited on 30 September 2008.]