

# **GEMINI SPACE STATION, INC.**

## **AUDIT AND RISK COMMITTEE CHARTER**

### **PURPOSE**

The purpose of the Audit and Risk Committee (the “**Committee**”) of the Board of Directors (the “**Board**”) of Gemini Space Station, Inc. (the “**Company**”) is to assist the Board in fulfilling its oversight responsibilities relating to:

- the Company’s accounting and financial reporting processes and internal controls, including audits and the integrity of the Company’s financial statements;
- the qualifications, independence and performance of the Company’s independent auditors (the “**Independent Auditors**”);
- the design, implementation and performance of the Company’s internal audit function;
- risk assessment and management
- Advising the Board on regulatory matters; and
- compliance by the Company with legal and regulatory requirements.

This charter (the “**Charter**”) sets forth the authority and responsibility of the Committee in fulfilling its purpose. The function of the Committee primarily is one of oversight. Although the Committee has the responsibilities and powers set forth in this Charter, it is not the Committee’s duty to plan or conduct audits or to determine that the Company’s financial statements are complete, accurate and in accordance with generally accepted accounting principles (“**GAAP**”). Instead, those are responsibilities of the Company’s management and the Independent Auditors.

### **MEMBERSHIP**

#### **Size and Appointment**

The Committee will consist of three or more members of the Board, with the exact number determined by the Board. All members of the Committee will be appointed by the Board and will serve at the Board’s discretion. Members of the Committee may be replaced or removed by the Board at any time, with or without cause. Resignation or removal of a director from the Board, for whatever reason, will automatically constitute resignation or removal, as applicable, from the Committee.

## **Qualifications**

Members of the Committee must meet the following criteria as well as any additional criteria required by applicable law, the rules and regulations (the “**Commission Rules**”) of the U.S. Securities and Exchange Commission (the “**Commission**”) or of the Nasdaq Stock Market (“**Nasdaq**”) or such other qualifications as are established by the Board from time to time:

- Each member of the Committee shall be qualified to serve on the Committee pursuant to the requirements of Nasdaq, subject to any applicable exceptions thereunder, and any additional requirements that the Board deems appropriate.
- Each member of the Committee must be able to read and understand fundamental financial statements, including the Company’s balance sheet, income statement and cash flow statement.
- At least one Committee member must qualify as an “audit committee financial expert” as defined in the Commission Rules.

## **Chairperson**

The Board may appoint a member of the Committee to serve as the chairperson of the Committee (the “**Chair**”). If the Board does not appoint a Chair, the Committee members may designate a Chair by majority vote. The Chair will set the agenda for, preside over and conduct the proceedings of Committee meetings.

## **RESPONSIBILITIES AND DUTIES**

The principal responsibilities and duties of the Committee are set forth below. These responsibilities and duties are set forth as a guide, with the understanding that the Committee will carry them out in a manner that is appropriate given the Company’s needs and circumstances. The Committee may perform such other functions as are consistent with its purpose and applicable law, rules and regulations, as the Board may request or prescribe, or as the Committee deems necessary or appropriate consistent with its purpose.

### **A. Independent Auditors**

With respect to the Company’s Independent Auditors, the Committee will:

1. Be directly responsible for the selection, appointment, discharge, compensation, retention and oversight of the work of the Independent Auditors and any other registered public accounting firm engaged for the purpose of preparing and issuing an audit report or performing other audit-related services for the Company. The Independent Auditors will report directly to the Committee.
2. Review and discuss with the Independent Auditors and management (a) any significant audit problems or difficulties, including difficulties encountered by the Independent Auditors during their audit work (such as restrictions on the scope of their activities or their access to information), (b) any significant

disagreements between management and the Independent Auditors and (c) management's response to these problems, difficulties or disagreements.

3. Review the qualifications, performance and continuing independence of the Independent Auditors, including:

- obtaining and reviewing, on an annual basis, a letter from the Independent Auditors describing (a) all relationships between the Independent Auditors and the Company required to be disclosed by applicable requirements of the Public Company Accounting Oversight Board (the "PCAOB"), (b) the Independent Auditor's internal quality control procedures, and (c) any material issues raised by the most recent internal quality control review, peer review or PCAOB review or inspection of the firm or by any other inquiry or investigation by governmental or professional authorities;
- reviewing and discussing with the Independent Auditors relationships or services (including permissible non-audit services) that may affect their objectivity and independence;
- overseeing the rotation of the Independent Auditors' lead audit and concurring partners and the rotation of other audit partners, with applicable time-out periods, in accordance with applicable law; and
- taking such other appropriate actions as may be required or desirable by the Committee to oversee the independence of the Independent Auditors.

4. Consider and assess the desirability of developing hiring policies for the Company's hiring of employees or former employees of the Independent Auditors, as required by regulations and by applicable listing standards.

5. Review and discuss with the Independent Auditors its annual audit plan, scope of audit activities and staffing, and monitor such plan's progress and results during the year.

6. Approve the fees and other compensation to be paid to the Independent Auditors (or other registered public accounting firms) and pre-approve all audit and non-audit related services provided by the Independent Auditors (or other registered public accounting firms) permitted by Nasdaq, Commission Rules and applicable law or regulation. The Committee may establish pre-approval policies and procedures, as permitted by Nasdaq, Commission Rules and applicable law, for the engagement of the Independent Auditors (or other registered public accounting firms) to render services to the Company including, without limitation, policies that would allow the delegation of pre-approval authority to one or more members of the Committee.

7. Review and discuss with management, the Independent Auditors, and the head of the Company's internal audit function, the reports delivered to the Committee by the Independent Auditors regarding:

- critical accounting policies, estimates and practices used;

- alternative treatments of financial information within GAAP that have been discussed with the Independent Auditors and management, the ramifications of those alternatives and the treatment preferred by the Independent Auditors;
- any material written communications between the Independent Auditors and management; and
- any matters required to be communicated to the Committee under GAAP and other legal or regulatory requirements.

## **B. Financial Statements and Disclosures**

The Committee will:

1. Prior to distribution to the public, review and discuss with management and the Independent Auditors, the Company's quarterly and annual financial results, earnings press releases and earnings guidance provided to analysts and rating agencies, and other public announcements regarding the Company's operating results.
2. Review and discuss the following with management, the internal auditors (if any), and the Independent Auditors, as applicable:
  - the Company's annual audited and quarterly unaudited financial statements and annual and quarterly reports on Form 10-K and 10-Q, including the disclosures in "Management's Discussion and Analysis of Financial Condition and Results of Operations," and recommend to the Board whether the annual financial statements should be included in the Company's Annual Report on Form 10-K;
  - the results of the Independent Auditors' audit or review of the financial statements;
  - all critical audit matters (CAMs) proposed by the Independent Auditor to be included in the Independent Auditor's annual audit report;
  - any items required to be communicated by the Independent Auditors in accordance with the applicable requirements of the PCAOB; and
  - any significant issues, events and transactions as well as any significant changes regarding accounting principles, practices, policies, judgments or estimates.

## **C. Internal Controls**

With respect to the Company's internal controls, the Committee will:

1. Review and discuss with the Company's management, its internal auditors (if any), and the Independent Auditors, and provide oversight over, the design, implementation, adequacy and effectiveness

of the Company's accounting and financial processes and systems of internal controls and material changes in such controls, including any control deficiencies, significant deficiencies and material weaknesses in their design or operation.

2. Review any allegations of fraud, whether or not material, that are disclosed to the Committee involving management or any employee of the Company with a significant role in the Company's accounting and financial reporting process and systems of internal controls.

3. Discuss any comments or recommendations of the Independent Auditors outlined in their annual management letter or internal control reports.

4. Periodically consult with the Independent Auditors out of the presence of the Company's management about internal controls, the fullness and accuracy of the Company's financial statements and any other matters that the Committee or the Independent Auditors believe should be discussed privately with the Committee.

5. Establish 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. Oversee the review of any such complaints and submissions that have been received, including the current status and the resolution if one has been reached.

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

The Committee will oversee the design, implementation and performance of the Company's internal audit function, including:

1. Reviewing and participating in the selection of individuals to, and any changes in, the Company's senior internal audit position.

2. Overseeing the internal audit function, including its objectives, responsibilities, independence, performance, annual plan and budget, and staffing.

3. Periodically meeting separately with management and with internal auditors (or other personnel responsible for the internal audit function).

#### **E. Risk Oversight and Compliance**

The Committee will:

1. Review with management the Company's major financial risks and enterprise exposures and the steps management has taken to monitor or mitigate such risks and exposures, including the Company's procedures and any related policies with respect to risk assessment and risk management.

2. Review with management the Company's cybersecurity and other information technology risks, controls and procedures, including the Company's plans to mitigate cybersecurity risks and respond to data breaches.
3. Review with management the Company's risk exposures in other areas, which may include financial, operational, technology, legal and compliance risk and any related policies, as the Committee deems necessary or appropriate from time to time.
4. Receive, as and when appropriate, reports and recommendations from management on risk tolerance, oversee the Company's process and policies for determining risk tolerance and review management's measurement and comparison of overall risk tolerance to established levels.
5. Review or discuss any comments or recommendations of outside counsel or outside experts with regard to risk and compliance, and, if appropriate, make recommendations to the Board regarding a schedule for implementing any recommended changes and monitor compliance with any such Board-approved schedule.
6. Review with management the Company's (a) programs for promoting and monitoring compliance with applicable legal and regulatory requirements, and (b) major legal and regulatory compliance risk exposures and the steps management has taken to monitor or mitigate such exposures.
7. Review the status of any significant legal and regulatory matters and any material reports or inquiries received from regulators or government agencies that reasonably could be expected to have a significant impact on the Company's financial statements.

## **F. Corporate Governance**

The Committee will:

1. Annually prepare a report to the Company's stockholders for inclusion in the Company's annual proxy statement as required by the Commission Rules.
2. Review and establish any appropriate changes to the insurance coverages for the Company's directors and officers.
3. Review the Company's program to monitor compliance with the Company's Code of Business Conduct and Ethics (the "Code of Conduct"), and meet periodically with the Company's Chief Compliance Officer to discuss compliance with the Code of Conduct.
4. Oversee the policies and procedures in the Company's Related Person Transactions Policy and review proposed transactions or courses of dealings requiring approval or ratification under such policy.
5. Discharge the responsibilities as set forth in such policies, codes and guidelines approved by the Board.

## **STUDIES AND ADVISORS**

The Committee has the sole authority and right, at the Company's expense, to retain consultants, accountants, legal counsel, experts, and other advisors of its choice to assist the Committee in connection with its functions, including any studies or investigations, and will have direct oversight of the work performed by such advisors and the right to terminate their services. The Committee will have the sole authority to approve the fees and other retention terms of such advisors.

The Company will provide for appropriate funding, as determined by the Committee, for:

- payment of compensation to any consultants, accountants, legal counsel, experts and other advisors retained by the Committee; and
- ordinary administrative expenses of the Committee that are necessary and appropriate in carrying out its functions.

## **MEETINGS AND ACTIONS WITHOUT A MEETING**

Meetings of the Committee will be held from time to time, as determined by the Committee, but no less frequently than once every fiscal quarter. The Committee, in its discretion, may ask members of management or others to attend its meetings (or portions thereof) and to provide pertinent information as necessary. A quorum of the Committee for the transaction of business will be a majority of its members. The Committee also may act by unanimous written consent in lieu of a meeting in accordance with the Company's Bylaws.

## **MINUTES AND REPORTS**

The Committee will maintain written minutes of its meetings and copies of its actions by written consent and will file such minutes and copies of written consents with the minutes of the meetings of the Board. The Committee will regularly report to the Board on its activities.

## **DELEGATION OF AUTHORITY**

The Committee may from time to time, as it deems appropriate and to the extent permitted under applicable law, the Nasdaq listing standards, the Commission Rules and the Company's Articles of Incorporation and Bylaws, form and delegate, either exclusively or non-exclusively, authority to subcommittees. Subcommittees of the Committee will consist of one or more members of the Committee who will regularly report on their activities to the Committee. Actions taken by any subcommittee shall be presented to the full Committee at the next Committee meeting.

## **REVIEW OF COMMITTEE COMPOSITION, PERFORMANCE AND CHARTER**

The Committee will evaluate on an annual basis the Committee's composition and performance. The Committee also will review and reassess the adequacy of this Charter annually, and recommend to the Board any changes the Committee determines appropriate.