

## **Energy Technologies Limited**

### **The Board Charter**

#### **Role and responsibilities**

The board of directors guides and monitors the business and affairs of Energy Technologies Limited (EGY) on behalf of the shareholders by whom they are elected and to whom they are accountable. The Board of EGY is responsible for the overall corporate governance of the consolidated entity.

The Board is responsible for:

- formulating the vision and strategic direction and monitoring the performance objectives of the company:
  - policy development;
  - monitoring and follow-through from strategic planning to implementation;
  - evaluation of results;
  - contingency planning, risk management and crisis management is in place;
- overseeing and fostering an appropriate culture for the company that is aligned to its values:
  - advice and review of organisation development, culture and structure;
- developing and monitoring adoption of the most appropriate principles of corporate governance:
  - good corporate governance is achieved;
  - duties to stakeholders - shareholders, employees, creditors, regulators and community - are upheld by company;
  - fiduciary duties of board, management and company are honoured;
- reviewing and ratifying systems of risk management and internal control, codes of conduct and legal compliance:
  - proper advice is taken in regard to contract and legal issues related to general commercial activities;
  - duties in directing management, disclosure, accountability and avoidance of conflict of interest are undertaken;
  - the company complies with the company constitution and relevant laws;
- approving and monitoring the progress of major capital expenditure projects, funding programmes, acquisitions and divestments:

- reviewing and approving annual business plans and budgets:
  - determining level of detail and frequency of reporting for effective director review;
  - reviewing financial alternatives;
  - business project planning and appraisal;
- appointing and evaluating the performance of senior executives:
  - directing and motivating senior management;
  - review and approval of compensation tools;
  - review of training and education
  - evaluation of organisation effectiveness and HR strategy;
- ensuring appropriate resources are available to senior executives:
- reviewing and ratifying systems for health, safety and environmental management and controls:
- appointing, removing and creating succession policies for directors and senior executives:
- approving and monitoring financial and other reporting:
  - monitoring the financial health of the business and identifying warning signals;
  - IT strategy, investment and evaluation;
- ensuring corporate accountability to the shareholders primarily through an effective communications strategy and through the Chairman adopting the key interface role between the company and the shareholders:

Typically director contribution will occur at the strategic level. At the operational level director involvement will generally be confined to monitoring management performance. This is normally done by attendance at regular board meetings, reviewing management reporting and querying management on any issue that a director feels the need to query.

In addition to the above, the board will work with senior management in relation to significant capital management decisions and investment opportunities including:

- evaluating investment opportunities, capital injection proposals and M & A proposals;
- supporting capital raising
- supporting the development of new business

## Composition

The company constitution requires that the Board consists of at least 3 directors. There is no share qualification. One third of the sitting directors must resign at each annual general meeting.

The composition of the Board is determined in accordance with the company's constitution and the following principles:

- The Board should comprise members with a broad range of experience, expertise and skills relevant to the company and its businesses;
- The number of directors may be increased where the Board considers that additional expertise is required in specific areas;
- At least half of the members should be independent;
- The Chairman of the Board should be an independent, non-executive director.

The Board considers a director to be independent if he or she is not an executive of the company and 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.

The Board will assess materiality of any given relationship on a case by case basis and has adopted guidelines to assist in that assessment. Unless there are mitigating factors the following interests are regarded as material:

- A holding, either directly or indirectly, of more than 5% of the company's voting shares
- A material affiliation with a customer of the company which accounts for more than 5% of the annual sales revenue of a business unit of the company.
- A material affiliation with a supplier of the company with annual sales to the company representing more than 5% of that supplier's annual sales revenue.
- Employment as an executive with any business unit of the company
- Within the last three years has been Chairman, Partner or Director of any company which has either been the external auditor for EGY or has provided tax or other consulting services to the company where the fees have exceeded \$200,000 in any given financial year.
- A contractual relationship with the company, other than as a director, which totals more than \$100,000 in any year.

## **Chairman of the Board**

The Chairman is responsible for:

- ensuring directors are aware of what is expected of them and that expectations are met;
- Board meeting frequency, running of Board meetings, recording of Board meetings and resolutions
- on-going liaison with management and dissemination of information to directors on informal/formal basis between scheduled meetings
- the Chairman is the primary conduit for information between the board and management

## **Meetings**

The Board will normally have six meetings in each financial year, with additional meetings as the Chairman shall deem appropriate.

Board papers should normally be distributed prior to each meeting.

Directors should attend as many board meetings as possible. Quorum for a directors' meeting is three. Resolutions are passed by simple majority. The Chairman does not have a casting vote.

Meetings may be facilitated by technology. Resolutions may be passed as written resolutions.

A director may request the Chairman to convene a meeting of the Board.

## **Committees**

The directors have delegated certain of their powers to the following committees; the Remuneration Committee, the Audit Committee and the Nomination Committee.

Each of the committees will act in accordance with its charter.

## **Relationship with Management**

The senior management of the company is responsible for the day-to-day running of the business of the company, in accordance with the strategic plans, budgets and other directions of the Board.

The executive (management) must be empowered to run the business without undue interference from directors but the onus is on management to keep the Board fully informed at all times of the activities of the company and to provide ample and considered background information on items of risk or importance to the company.

It is the right of any director to request information from management on any matter and it is the duty of management to supply such information in full. Generally such requests and supplies will be made through the Chairman.

## **Conflicts of Interest**

The directors will comply with the law and the company constitution in relation to potential and actual conflicts between the director's personal interest and the interests of the company. Interests are declared by each director in accordance with the Corporations Act and the ASX rules.

Directors will comply with board policy in relation to conflicts of interest, share trading and use of confidential information.

In the event of any concerns, a director will seek guidance from the Chairman.

## **Conduct, independence and access**

Directors have duties which are established by law. Nothing in this charter diminishes those duties, which include duties:

- to act in good faith for the benefit of the company as a whole;
- to use powers for a proper purpose for the benefit of members (shareholders) as a whole;
- not to delegate powers except with proper authorisation and duty to exercise independent judgement;
- to exercise care, skill and diligence;
- to avoid conflicts between personal interests and interests of the company;
- not to enter into transactions in which the directors have an interest except in compliance with the requirements of the law;
- not to gain advantage from use of position as a director;
- not to make unauthorised use of company's property or information;
- not to accept personal benefit from third parties conferred because of position as a director;
- to observe the company's memorandum and articles of association and resolutions; and
- to keep proper books of account.

Each director is entitled to seek such additional information from management or the company auditors as the director thinks fit for the purposes of complying with the director's duties. A director is entitled to seek independent expert advice if the director considers it necessary for the purpose of carrying out the director's duties and responsibilities.

### **Additional work for the company**

- It is expected that directors in the normal course of their duties will undertake initiatives for the benefit of the company and its shareholders, or undertake special tasks that lie within their special fields of competence and expertise.
- It is recognised that directors may from time to time be requested to provide professional or other services to the company additional to the foregoing expectations or the scope of duties laid down in the duty statement.
- In such instances the services required of the director or directors shall be clearly stated in advance, including anticipated expenses where relevant, agreed in writing by the managing director and advised to the board.
- Such services will be monitored by the managing director as appropriate.
- Payment for such services will be made in arrears, either as a lump sum, or at a daily rate, after acceptance of a suitably detailed invoice.
- Where acceptable to the director concerned, and subject to agreement by the board, payment may be made in company shares at an agreed valuation.
- A director undertaking such duties should submit a written report for board review on the outcomes received.

### **Independent Advice**

A director is entitled to seek independent professional advice at the company's expense when the issue in question is one which the director reasonably considers, after consultation with the Chairman, is of a character that makes the obtaining of independent advice appropriate.

In such circumstances, the Chairman, having satisfied himself with the qualifications of the proposed expert, the reasonableness of the fees and that the report will be made available to the Board, will not unreasonably withhold consent.

All instructions to the expert must be in writing, specify the party instructing, the capacity in which that party is acting and to whom the advice is to be addressed.

### **Appointment of new Directors**

The Board manages planning for its own succession and keeps the balance of skills and experience of the Board under review with the assistance of the Nomination Committee. The Board currently comprises 3 directors; however this number may be increased by the Board if additional expertise is required in a specific area, or if necessary to meet increased demands due to the growth or increased complexity of the company.

In selecting a director, the Board considers the skills and experience needed to govern the company both now and in the future. Directors appointed are chosen to enhance the range of skills available and to respond to the evolution of the company.

The age and skills of the new director relative to that of the existing directors is considered to ensure continuity at Board level.

Core skills considered important when selecting new directors include the capacity for strategic thinking and risk management as well as the capacity to understand the range of financial aspects of the company's business.

The Board also considers the number and nature of other directorships and commitments that a potential director has as it is important that the director will be able to devote the necessary time to his or her new appointment.

Terms and conditions of appointment are advised in writing to each new non-executive director. Subject to the constitution and the Corporations Act, such terms and conditions shall include an agreement with the director that the maximum term of his/her appointment will be 10 years unless the Board otherwise determines.

The appointment and removal of directors is governed by the Corporations Act and the company's constitution. Under clause 14.1 of the company's constitution, the number of directors will be a minimum of three and a maximum of ten. Clause 14.3 of the company's constitution (which reflects the Corporations Act) requires that at every Annual General Meeting of the company, one-third of the directors (or the nearest whole number of directors not exceeding one-third), excluding the Managing Director, must retire, but are eligible for re-election by shareholders. The Managing Director is not subject to retirement by rotation.

### **Directors' Code of Conduct**

The directors of EGY recognize the special responsibilities inherent in their position and act in accordance with the spirit of the Employees Code of Conduct and also with the following additional principles which arise from the duties and responsibilities specific to members of the Board:

- A director must at all times act honestly, in good faith and in the best interests of the company as a whole.
- A director has a duty to perform the functions of office and exercise the powers attached to that office with a degree of care and diligence that a reasonable person would exercise if they were a director in the same circumstances.
- A director should consider matters before the Board having regard to:
  - a. any possible material personal interest he or she may have in the subject matter; and
  - b. the amount of information appropriate to properly consider the subject matter; and
  - c. The best interests of the company.

- A director must recognise that, in acting as a director of the company, his or her dominant purpose or object must be to serve the interests of the members of the company as a whole, not the interests of any particular group of directors or stakeholders or the director's personal or commercial interests. In circumstances of insolvency or near insolvency, the duty to act in the best interests of members is overridden by a duty to act in the best interests of creditors.
- A director must not make improper use of information acquired as a director to gain a personal advantage or to cause detriment to the company.
- A director must not take improper advantage of the position of director to gain a personal advantage or to cause detriment to the company.
- A director must not place himself or herself in a position where there is a reasonable possibility of conflict between his or her personal or business interests, the interests of any associated person, or his or her duties to any other company, on the one hand, and the interests of the company or his or her duties to the company, on the other hand. The action which a director will be required to take if he or she is faced with an actual or potential conflict of interest or duties in relation to a particular matter being considered by the Board will depend on the nature and circumstances of the conflict and may include any of the following:
  - a. fully and frankly informing the Board about the circumstances giving rise to the conflict;
  - b. abstaining from voting on any motion relating to the matter and absenting himself or herself from all board deliberations relating to the matter; or
  - c. resigning from the Board
- If a director believes that he or she may have a conflict of interest or duty in relation to a particular matter, the director should consult with the Chairman.
- A director must bring an enquiring, open and independent mind to Board meetings, listen to the debate on each issue raised, consider the arguments for and against each motion and reach a decision that he or she believes to be in the best interests of the company as a whole.
- An opportunity must be provided for a director to put his or her views on issues before the Board or a committee on which he or she sits. While directors must treat each other with courtesy and observe the other rules in this code, directors should be able to engage in vigorous debate on matters of principle.



- Confidential information (including Board or committee papers) received by a director in the course of the exercise of directorial duties remains the property of the company from which it was obtained and it is improper to disclose it, or allow it to be disclosed, unless that disclosure has been duly authorised by the company, or the person by whom the information was provided, or is required by law or by the Listing Rules.
- A director must not disclose the content of discussion at board meetings or committee meetings outside appropriate and responsible circles within the company with a legitimate interest in the subject of the disclosure, unless that disclosure has been authorised by the company or is required by law or by the ASX Listing Rules.
- A director generally must not engage in conduct or make any public statement likely to prejudice the company's business or likely to harm, defame or otherwise bring discredit upon or denigrate the company, fellow directors or staff. A director may make such a statement only if the director believes in good faith that it is in the best interests of the company as a whole to make such a statement.
- A director must, unless exempted by the Board, co-operate in corporate governance procedures prescribed by the Chairman including periodic appraisals of the performance of the Board conducted by the Chairman.
- A Non-Executive director must devote such time as is necessary to carry out the duties of the Non-Executive director as determined by the Chairman.
- A director has an obligation, at all times, to comply with the spirit, as well as the letter, of the law and of the principles of this code of conduct.