

## NETLIST, INC. CORPORATE GOVERNANCE GUIDELINES

The board of directors (the “Board”) of Netlist, Inc. (the “Company”) has developed corporate governance practices to help it fulfill its responsibilities to the Company’s stockholders to oversee the work of management and the Company’s business and operations. The governance practices contained in these guidelines are intended to assure that the Board has the necessary authority and practices established to review and evaluate the Company’s business and operations, and to make decisions independent of management. These guidelines also are intended to align the interests of directors and management with those of the Company’s stockholders. These guidelines are subject to future review and revision as the Board may find necessary or advisable to achieve these objectives.

### **Role of the Board**

The basic responsibility of directors is to exercise their business judgment to act in what they reasonably believe to be in the best interests of the Company and its stockholders. In discharging that obligation, directors should be entitled to rely on the honesty and integrity of the Company’s senior executives and its outside advisors and auditors. The Board is responsible for oversight of the business and affairs of the Company, determination of the Company’s mission, long-term strategy and objectives and management of the Company’s risks.

In addition to its general oversight of management, the Board or its committees perform the following principal functions:

- Review, evaluate, and, where appropriate, approve the Company’s business strategies and long-term plans, and evaluate its performance against such plans;
- Review, evaluate and approve major corporate actions;
- Oversee management’s efforts to establish and maintain for the Company the highest standards of legal and ethical conduct, including with respect to the integrity of the Company’s accounting, financial reporting and finance processes and systems of internal control, compliance with law and ethics, and the integrity of relationships with customers, suppliers and other stakeholders; and
- Select, evaluate and compensate the Company’s executive officers and review management succession planning.

### **Board Composition and Selection**

- 1. Board Size.** In accordance with the Company’s by-laws, the number of directors constituting the full Board shall be as determined by the Board from time to time. The Board may periodically evaluate whether a larger or smaller number of directors would be preferable.
- 2. Selection of Board Members.** All Board members are elected by the Company’s stockholders annually, except as noted below with respect to vacancies. Each year, at the

Company's annual stockholder meeting, the Board recommends director nominees. The Board's recommendations are based on its determination (using advice and information supplied by its Nominating and Corporate Governance Committee) as to the suitability of the nominees, individually and in the aggregate, to serve as directors of the Company, taking into account the membership criteria discussed below. The Board may fill vacancies in existing or new director positions, which directors will serve only until the next election of directors by stockholders unless elected by the stockholders to a further term at such time.

3. **Invitation to Join the Board.** The invitation to join the Board will be extended by the Board itself via the Company's Chairman of the Board (the "Chairman") and Chief Executive Officer (the "CEO").
4. **Board Membership Criteria.** The Board's Nominating and Corporate Governance Committee will work with the Board on an annual or other regular basis to determine the suitability of individual Board members, taking into account an individual's skills, expertise, industry and other knowledge and business and other experience that would be useful to the effective oversight of the Company's business.
5. **Board Composition.** A majority of the Board will consist of directors whom the Board has determined are "independent" under Section 10A of the Securities Exchange Act of 1934 (the "Act"), the listing standards of The Nasdaq Stock Market, Inc. ("Nasdaq") and other applicable laws, rules and regulations regarding independence in effect from time to time, subject to any phase-in rules that may be applicable.
6. **Term Limits.** The Board does not believe it should limit the number of terms for which an individual may serve as a director. Directors who have served on the Board for an extended period of time are able to provide valuable insight into the operations and future of the Company based on their experience with, and understanding of, the Company's history, policies and objectives. The Board believes that, as an alternative to term limits, it can ensure that the Board continues to evolve and adopt new viewpoints through the evaluation and nomination process described in these guidelines.
7. **Selection of Chairman and CEO.** The Board will select the Chairman and CEO of the Company in the manner that it determines to be in the best interests of the Company's stockholders. These positions may be held by the same person as determined by the Board; provided, however, that if the same person holds both positions, then the Board will also select another member of the Board to serve as Lead Independent Director.
8. **Limitations on Other Board Service.** The Board members are expected to prepare for, attend and participate in Board meetings and meetings of Committees on which they serve. In addition, directors must stay abreast of the Company's business, operations and markets. Each Board member is expected to ensure that other existing and planned future commitments do not materially interfere with the member's service as a director of the Company. No Board Member should hold more than three directorships of public companies, and the CEO of the Company and the Board members that are employed fulltime should not hold more than two such directorships (including, in each case, such

member's seat on the Board). These and other commitments will be considered by the Nominating and Corporate Governance Committee and the Board when reviewing Board candidates and in connection with the Board's self-assessment process. Directors are expected to report changes in their primary business or professional association, including retirement, to the Chairperson of the Board and the Chairperson of the Nominating and Corporate Governance Committee.

### **Board Meetings and Performance**

- 9. Number of Meetings.** The Board will have at least four meetings each year and such additional meetings as called by the Board or otherwise in accordance with the Company's by-laws. In addition, the independent directors of the Board will meet regularly in executive session (with no management directors or management present) as often as they shall determine, but at least semi-annually. Executive sessions of the independent directors will be called and chaired by the Lead Independent Director, or in the absence of such person, the Chair of the Board's Nominating and Corporate Governance Committee. These executive session discussions may include such topics as the independent directors determine. During such executive sessions, the Board shall have direct access to the Company's CFO, General Counsel, CTO, or such other officer of the Company as the Board directs.
- 10. Agenda.** The Chairman, in consultation with the CEO or (if the same individual serves as both Chairman and CEO) the Lead Independent Director, and taking into account suggestions from other members of the Board, will set the agenda for each Board meeting and will distribute such agenda in advance to each director.
- 11. Distribution of Materials.** All information relevant to the Board's understanding of matters to be discussed at an upcoming Board meeting will be distributed in writing or electronically to all members in advance, whenever feasible and appropriate. In preparing this information, management should ensure that materials distributed are as concise as possible and give directors sufficient information to make informed decisions. The Board acknowledges that certain items to be discussed at Board meetings are of an extremely sensitive nature and that the distribution of materials on these matters prior to Board meetings may not be appropriate.
- 12. Access to Management and Employees.** The Board will have complete access to Company management and employees in order to ensure that directors can ask all questions and obtain all information necessary to fulfill their duties. The Board may specify a protocol for making such inquiries. Management is encouraged to invite Company personnel to any Board meeting at which their presence and expertise would help the Board have a full understanding of matters being considered.
- 13. Access to Independent Advisors.** Directors have full access to the Company's outside advisors. Each director is expected to use his or her judgment to ensure that any such contact is not disruptive to the business operations of the Company and will, to the extent appropriate, coordinate any such contact with the Chief Executive Officer.

Legal counsel, outside accountants, compensation experts and other advisors may assist the Board in its consideration of matters. The Board and any Board committee have the right to retain outside financial, legal and other outside advisors with respect to any issues relating to their activities, at the Company's expense.

- 14. Executive Sessions of Independent Directors.** The independent directors of the Board will meet regularly in executive session (with no management directors or management present) as often as they shall determine, but at least annually. Executive sessions of the independent directors will be called and chaired by Lead Independent Director, or in the absence of such person, the chairman of the Board's Nominating and Corporate Governance Committee. These executive session discussions may include such topics as the independent directors determine.
- 15. Board's Interaction with Third Parties.** The Board believes that management speaks for the Company. Individual directors from time to time may meet or otherwise communicate with various constituencies involved with the Company, but it is expected that directors would do so only with the knowledge of management and, in most instances, at the request of management.

#### **Performance Evaluation; Succession Planning**

- 16. Annual CEO Evaluation.** The Board's Compensation Committee will perform an evaluation at least annually of the performance of the CEO and communicate the results of the review to the CEO. The Board's Compensation Committee will establish the evaluation process and determine the specific criteria on which the performance of the CEO is evaluated.
- 17. Succession Planning.** The CEO will discuss executive succession planning with the Board's Compensation Committee.
- 18. Board Evaluation.** The Board's Nominating and Corporate Governance Committee will conduct an annual evaluation of the performance of the Board and report its conclusions to the Board. Such report generally should include an assessment of the Board's compliance with the principles set forth in these guidelines, as well as identification of areas in which the Board could improve its performance.

#### **Compensation**

- 19. Board Compensation Review.** The Board's Nominating and Corporate Governance Committee will review Board and committee compensation and benefits and recommend any proposed changes to the Board for its approval. The Board will make changes in its director and committee compensation practices only upon the recommendation of its Nominating and Corporate Governance Committee.

#### **Committees**

- 20. Number and Type of Committees.** The Board has established each of the following committees: Audit Committee, Compensation Committee and Nominating and Corporate Governance Committee. The Board may add new committees or remove existing ones as

it deems advisable in the fulfillment of its primary responsibilities. Each committee will perform its duties as assigned by the Board in compliance with the Company's by-laws and such committee's charter. Committee duties are described briefly as follows:

**Audit Committee.** The Audit Committee oversees the integrity of the Company's financial statements, the Company's compliance with legal and regulatory requirements, the independent auditor's qualifications and independence and the performance of the Company's independent auditors. The Audit Committee also produces an annual report for inclusion in the Company's proxy statement.

**Compensation Committee.** The Compensation Committee discharges the overall responsibility of the Board relating to executive compensation and produces an annual report for inclusion in the Company's proxy statement.

**Nominating and Corporate Governance Committee.** The Nominating and Corporate Governance Committee identifies qualified individuals to become members of the Board and recommends to the Board proposed nominees for Board membership, recommends to the Board directors to serve on each committee of the Board, assesses the Board's effectiveness and develops and implements the Company's corporate governance guidelines.

21. **Rotation of Committee Members.** The Board and its Nominating and Corporate Governance Committee believe that consideration should be given to rotating members of the Board's committees periodically at about a six-year interval, but do not believe that such a rotation should be mandated as a policy since there may be reasons in certain instances to maintain an individual director's committee membership for a longer period of time.
22. **Composition of Committees; Committee Chairmen.** Each of the Audit, Compensation and Nominating and Corporate Governance Committees consist solely of directors who satisfy the applicable independence requirements of the Act, Nasdaq and other applicable laws, rules and regulations regarding independence in effect from time to time, unless the Board determines that the participation of a non-independent director is in the best interests of the Company and its stockholders, and subject to the phase-in rules that may be applicable. The Board is responsible for the appointment of committee members according to criteria that it determines to be in the best interest of the Company and its stockholders.
23. **Committee Meetings and Agenda.** The chairman of each committee will develop, together with relevant Company management, such committee's general agenda and objectives and for setting the specific agenda for such committee's meetings. Such chairman and committee members will determine the frequency and length of committee meetings consistent with each such committee's charter.

### **Miscellaneous**

24. **Confidentiality.** The proceedings and deliberations of the Board and its committees will be treated as confidential. Each director will maintain the confidentiality of information received in connection with his or her service as a director.

25. **Reliance on Management and Consultants.** The Board will be entitled to rely upon management and such counsel, accountants, auditors and other expert advisors and consultants (“Consultants”) as it deems appropriate. Except as otherwise provided in a committee charter, the Board will have the authority to select, retain, terminate and approve the fees and other retention terms of such Consultants, which fees will be borne by the Company.
26. **Disclosure of Corporate Governance Principles.** These guidelines will be made available on the Company’s website at [www.netlist.com](http://www.netlist.com).