



## NUVASIVE, INC.

### Charter for the Audit Committee of the Board of Directors

Revised Effective February 7, 2019

#### **Purpose**

The Board of Directors (the “**Board**”) of NuVasive, Inc. (the “**Company**”) has established the Audit Committee (the “**Committee**”) to assist the Board in fulfilling its oversight responsibilities with respect to the accounting and financial reporting processes of the Company and the audits of the financial statements of the Company; the appointment, compensation and oversight of the Company’s independent auditor, including review of the qualifications, independence and performance of the Company’s independent auditor; the performance of the internal audit and finance functions of the Company; the Company’s compliance with applicable laws, rules and regulations; and matters related to the Company’s Code of Conduct. The Committee will undertake those specific duties and responsibilities listed below and such other duties as the Board from time-to-time may prescribe. The Committee will provide to the Board the results of its examinations and recommendations and such additional information and materials as it may deem necessary to make the Board aware of significant matters that require Board attention.

#### **Membership**

The Committee will be comprised of at least three members of the Board. The members of the Committee shall be elected by the Board. Each Committee member will serve on the Committee during his or her respective term as a Board member and until his or her successor is duly elected and qualified, subject to such member’s earlier resignation, removal or death. Committee members may be removed by a majority vote of the Board. If a Committee Chair is not elected by the Board, the members of the Committee may designate a Chair by a majority vote of the Committee.

As long as the Company’s Common Stock remains publicly traded, each member of the Committee must be a non-employee director and qualify as “independent” as defined under applicable NASDAQ (or applicable stock exchange) rules (except as otherwise permitted under such rules). The Committee’s membership shall also comply with the independence standards set forth in the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), and any other requirements pertaining to members of the Committee under applicable laws, rules and regulations, including under the Exchange Act and NASDAQ rules.

Each member of the Committee must be able to read and understand fundamental financial statements, including a balance sheet, income statement and cash flow statement and shall meet the standards of financial literacy and sophistication requirements of NASDAQ. In addition, at least one Committee member shall have past employment experience in finance or accounting, professional certification in accounting, or other comparable experience or background resulting in the individual being financially sophisticated, which may include being or having been a chief executive, chief financial or other senior officer with financial oversight responsibilities.

No member of the Committee shall have participated in the preparation of the financial statements of the Company or any current subsidiary at any time during the past three (3) years.

## **Structure and Meetings**

The Committee will meet at least quarterly, or more often as necessary to fulfill its responsibilities. A majority of the Committee members will be a quorum. The action of a majority of those present at a meeting at which a quorum is present will be the act of the Committee. Committee members may participate in meetings by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation will constitute presence in person at such meeting. The Committee may take any action required or permitted hereunder by consent in lieu of a meeting if all Committee members execute, either before or after the action is taken, such consent (either in writing or by electronic transmission), which is subsequently filed with the minutes of the Committee.

The Chair of the Committee will preside at each meeting and will approve the agenda of the items to be addressed at each regularly scheduled meeting. Management will circulate a proposed agenda and support materials for each regular meeting to each Committee member in advance of the meeting. The Committee (with the assistance of management) shall keep minutes of its meetings, which minutes shall be filed with the minutes of the meetings of the Board, and will make regular reports to the Board regarding actions taken by the Committee.

The Committee will meet regularly in executive session. Any actions taken by the Committee during any period in which one or more members fail for any reason to meet the membership requirements set forth above shall be nonetheless duly authorized actions of the Committee for all corporate purposes. To the extent permitted by law, rule or regulation, the Committee may form and delegate authority to one or more subcommittees (comprised of one or more members of the Committee) or to one or more management committees (comprised of one or more executives of the Company). Any such subcommittee or management committee shall regularly report to the Committee on any actions taken pursuant to such delegated authority.

## **Responsibilities**

### *Oversight of Independent Auditor*

The Committee shall have the sole authority to select, evaluate, and if necessary, replace the independent auditor, it being acknowledged that the independent auditor shall report directly to the Committee. In connection with this authority, the Committee will:

1. Appoint and provide for the compensation of an independent public accounting firm registered with the Public Company Accounting Oversight Board (the “PCAOB”) to serve as the Company’s independent auditor, oversee the work of the independent auditor (including resolution of any disagreements between management and the independent auditor regarding financial reporting), evaluate the performance of the independent auditor, and, if so determined by the Committee, replace the independent auditor.
2. Review and approve the annual audit plan of the independent auditor.
3. Discuss with the independent auditor the matters required to be discussed by PCAOB AU Section 380, *Communication with Audit Committees*, as adopted by the PCAOB in Rule 3200T.
4. Confirm annually that the proposed audit engagement team for the independent auditor complies with the applicable auditor rotation rules.

5. Pre-approve all audit services and permissible non-audit services to be provided by the independent auditor. To the extent permitted under applicable laws, rules and regulations, this authority may be delegated to one or more members of the Committee, provided such approvals are regularly reported on and presented to the full Committee.
6. Review the report from the independent auditor required by Section 10A of the Exchange Act, including all critical accounting policies to be used by the company; all alternative financial treatments of financial information permissible within generally accepted accounting principles (“GAAP”) that have been discussed with management, the ramifications of such alternative treatment, and the independent auditor’s preferred treatment; and other material written communications, such as management letters, between the independent auditor and management.
7. Review the written statement from the independent auditor delineating all relationships between the independent auditor and the Company, consistent with the PCAOB Rule 3526, *Communication with Audit Committees Concerning Independence*.
8. Engage in a dialogue with the independent auditor with respect to any disclosed relationships or services that may impact the objectivity and independence of the independent auditor, and take appropriate action to oversee and address the independence of the independent auditor.
9. Instruct the independent auditor to advise the Committee if there are any subjects that require special attention.

#### *Oversight of Financial Reporting and Other Financial Disclosure*

The Committee will:

10. Review with management and the independent auditor at least annually the Company’s application of critical accounting policies and its consistency from period to period, and the compatibility of these accounting policies with GAAP, and (where appropriate) the Company’s provisions for future occurrences which may have a material impact on the financial statements of the Company.
11. Consider and approve, if appropriate, significant changes to the Company’s accounting principles and financial disclosure practices as suggested by management and the independent auditor.
12. Review with management and the independent auditor, at appropriate intervals, the extent to which any changes or improvements in accounting or financial practices, as approved by the Committee, have been implemented.
13. Oversee the adequacy of the Company’s system of internal accounting controls, and review annually with the independent auditor the attestation to and report on the assessment made by management, and consider with management and the independent auditor whether any changes to the internal accounting controls are appropriate in light of management’s assessment of the independent auditor’s attestation.
14. Review the evaluation of internal accounting controls prepared by management, and the independent auditor’s attestation, to the extent required by applicable law.
15. Review the Company’s Quarterly Reports on Form 10-Q with management and the independent auditor prior to filing with the Securities and Exchange Commission (“SEC”).

16. Review the Company's Annual Reports on Form 10-K with management and the independent auditor prior to filing with the SEC, and recommend to the Board whether the audited financial statements are to be included in the Form 10-K.
17. Review and discuss with management all press releases regarding the Company's financial results, including any non-GAAP financial information.
18. Review with management its evaluation of the Company's procedures and controls designed to assure that information required to be disclosed in the Company's periodic reports is recorded, processed, summarized and reported in such reports within the time periods specified by the SEC for the filing of such reports ("**Disclosure Controls**"), and consider whether any changes are appropriate in light of management's evaluation of the effectiveness of such Disclosure Controls.
19. Review with management and the independent auditor the effect of regulatory and accounting initiatives on the financial statements.
20. Review any major issues regarding accounting principles and financial statement presentations, including any significant changes in selection of an application of accounting principles. Consider and approve, if appropriate, changes to the Company's auditing and accounting principles and practices as suggested by the independent auditor or management.
21. At least once annually, discuss with the independent auditor, without management being present, any matters the Committee or the independent auditor believe could significantly affect the financial statements and should be discussed privately.
22. Meet with management and the independent auditor to discuss the annual financial statements and the report of the independent auditor, and to discuss significant issues encountered in the course of the audit work, including: restrictions on the scope of activities; access to required information; the adequacy of internal accounting controls; the adequacy of the disclosure of off- balance sheet transactions, arrangements, obligations and relationship in reports filed with the SEC; and the appropriateness of the presentation of any non-GAAP financial measures included in any report filed with the SEC or in any public disclosure or release.
23. Produce a Committee report for inclusion in the Company's proxy statement or Annual Report on Form 10-K, as applicable, in accordance with applicable rules and regulations.

*Oversight of Internal Audit and Finance Functions; Compliance Matters*

The Committee will:

24. Oversee the Company's internal audit function, including the review of the annual audit plan, as well as staffing, resources and responsibilities. The Committee will have direct access to the leader of the internal audit function and other senior internal audit personnel.
25. Monitor and review the effectiveness of the Company's internal audit function in the context of the Company's overall risk management framework.
26. Review and approve all related party transactions other than compensation transactions after reviewing each such transaction for potential conflicts of interest and other improprieties.
27. Oversee the Company's finance function, which may include the adoption from time-to-time of a policy with regard to the investment of the Company's assets.

28. Advise the Board with respect to Company policies and procedures regarding compliance with applicable laws, rules and regulations, including the Company's Code of Conduct, as they relate to matters within the oversight responsibilities of the Committee.
29. Assist the Nominating, Corporate Governance and Compliance Committee in its periodic review of the Code of Conduct by making recommendations regarding changes to the Code of Conduct related to matters within the oversight responsibilities of the Committee, as the Committee shall deem appropriate.
30. Establish procedures for the receipt, retention and treatment of complaints received by the Company regarding financial reporting, accounting, internal accounting controls, auditing and related matters.
31. Establish procedures for the confidential, anonymous submission by Company employees of concerns regarding questionable financial reporting, accounting or auditing matters.
32. As requested by the Board, review and investigate allegations of misconduct regarding financial reporting, accounting, internal accounting controls, auditing and related matters, and adopt, as necessary or appropriate, remedial, disciplinary, or other measures with respect to such conduct.
33. Promptly refer to the Nominating, Corporate Governance and Compliance Committee all matters related to regulatory affairs, quality assurance and related matters, and ethics and compliance and related matters, which are within the oversight responsibilities of the Nominating, Corporate Governance and Compliance Committee.
34. Review and approve from time-to-time any necessary and/or reasonable Director and Officer indemnification insurance policies on behalf of the Company and/or Board.

#### *Committee Charter and Committee Performance*

The Committee will:

35. Review and reassess the adequacy of this Charter periodically, but no less than annually, and make recommendations to the Board with regard to appropriate changes to this Charter.
36. Cause this Charter to be made publicly available as may be required under applicable laws, rules and regulations, including under the Exchange Act and NASDAQ rules.
37. Perform an annual self-assessment of the Committee's performance, including its processes and communications with management, the independent auditor and the Board.

In addition to the above responsibilities, the Committee will undertake such other duties as the Board delegates to it or that are required by applicable laws, rules and regulations.

#### **Committee Resources**

The Committee has the authority to take any actions it considers appropriate to fulfill the above duties and responsibilities. In discharging its responsibilities, the Committee has the authority to investigate any matter brought to its attention with full access to all books, records, facilities, and personnel of the Company. The Committee shall have the authority, in its sole discretion, to engage, retain, and set and approve the compensation of, independent legal, accounting, or other consultants or advisors, at the Company's expense. The Committee shall be directly responsible for the appointment, compensation and oversight of the work of any consultant or adviser retained by the

Committee. The Company shall provide for appropriate funding, as determined by the Committee, for payment of compensation to the independent auditor, compensation to any consultants or advisors engaged by the Committee and ordinary administrative expenses of the Committee that are necessary and appropriate for carrying out its duties. The Committee may request any officer or employee of the Company or the Company's outside counsel, accountant, or the independent auditor to attend a meeting of the Committee or to meet with any member(s) of, or consultants to, the Committee. Any consultant retained by the Committee shall report solely to the Committee.

### **Reports**

The Committee shall report regularly to the Board with respect to its meetings and any significant developments in the course of performing the duties and responsibilities set forth in this Charter, or as otherwise requested by the Board. The Committee will, to the extent deemed appropriate, record its summaries of recommendations to the Board in written form that will be incorporated as a part of the minutes of the Board.