



**AUDIT COMMITTEE CHARTER**  
**(Amended and Restated Effective August 8, 2024)**

**1. Purpose**

The Audit Committee (the "*Committee*") is a committee of the Board of Directors (the "*Board*") of Delcath Systems, Inc. (the "*Company*"). Its primary function is to provide assistance to the Board in fulfilling its oversight responsibilities with respect to (a) the integrity of the financial statements and disclosures regarding the Company's financial performance provided to stockholders and filed with the Securities and Exchange Commission (the "*SEC*"); (b) the system of internal accounting and financial controls that Company management has established; (c) the Company's compliance with legal requirements; and (d) the independent audit of the Company's financial statements.

The Committee will have the authority to perform the specific functions described below. It is the responsibility of the Committee, in performing its functions, to provide available avenues of communication among the Company's independent audit firm (the "*Outside Auditors*"), the Company's management and the Board. The Committee should have a clear understanding with the Outside Auditors that they must maintain an open relationship with the Committee and that the ultimate accountability of the Outside Auditors is to the Committee and to the Board, as representatives of the Company's stockholders.

**2. Composition**

The Committee shall be comprised of at least three members of the Board who are not an executive officer or employee of the Company. Each member of the Committee shall satisfy the independence and experience requirements of the Company's corporate governance guidelines, as in effect from time to time, and, as applicable, The Nasdaq Stock Market LLC ("*Nasdaq*") listing rules, the Securities Exchange Act of 1934, as amended (the "*Exchange Act*"), and the rules and regulations of the SEC adopted thereunder. Each member of the Committee must be free from any relationship which, in the opinion of the Board, would interfere with the exercise of his or her independent judgment as a member of the Committee, including, but not limited to, participating in the preparation of the Company's financial statements at any time during the past three years.

Each member of the Committee must be able to read and understand fundamental financial statements (including balance sheets, income statements and cash flow statements) at the time of his or her appointment to the Committee. In addition, at least one member of the Committee shall have accounting or related financial management expertise that results in the member's "financial sophistication" as defined by the applicable Nasdaq listing rules to the extent that such member shall qualify to be an "audit committee financial expert" as defined by applicable SEC regulations. Each member of the Committee shall meet any other requirements imposed by applicable laws or listing standards to serve on the Committee, subject to applicable exemptions and transition provisions.

A majority of the Committee members shall have past employment experience in finance or accounting, requisite professional certification in accounting, or any other comparable experience or background which results in such member's financial sophistication, including being or having been a chief executive officer, chief financial officer, or other senior officer with financial oversight responsibilities or prior service on another company's audit committee.

Each appointed Committee member shall be subject to annual reconfirmation and may be removed by the Board at any time with or without cause. Any Committee member may resign effective upon giving oral or written notice to the Committee Chair, the Company's Secretary or the Board (unless the notice specifies a later time for the effectiveness of such resignation). Vacancies occurring on the Committee shall be filled by the Board.

One of the members of the Committee will be designated Committee Chair by the Board and shall hold such office, subject to the discretion of a majority of the independent directors of the Board. The determination of the "independence" or "financial sophistication" of each Committee member and the designation of one or more Committee members as an "audit committee financial expert," shall be made by the Board.

No member of the Committee may serve on the audit committee of more than three public companies, including the Company, unless the Board, or any committee thereof, has determined that such simultaneous service would not impair the ability of such member to effectively serve on the Committee. Additionally, the Committee Chair shall not serve on the audit committee of more than one other public company, unless the Board, or any committee thereof, has determined that such simultaneous service would not impair the ability of such member to effectively serve on the Committee.

### **3. Meetings**

The Committee shall meet at least four times annually and as many additional times as the Committee Chair or the Committee deems necessary or at the request of the Outside Auditors. The Committee shall meet periodically, and no less than quarterly, in separate executive sessions with Company management (including the principal financial officer) and the Outside Auditors, and have such other direct and independent interaction with such persons from time to time as the members of the Committee consider appropriate.

The same procedural rules concerning notice of meetings, actions by unanimous consent or telephonic meetings and meetings held by other means of remote communication, and other procedural matters, shall apply to Committee meetings as apply to meetings of the Board under the Company's By-laws and other governing documents. The Committee is authorized and empowered to adopt its own rules of procedure not inconsistent with (a) any provision of this Charter; (b) any provision of the Company's Certificate of Incorporation or By-laws, or (c) Delaware or any other applicable law. In the event that there are equal votes on a matter, the Committee Chair will have the tie-breaking vote.

Committee members will strive to be present at all meetings of the Committee. As necessary or desirable, the Committee Chair may request that members of management, outside legal counsel and the Outside Auditors be present at Committee meetings and provide information to the Committee. A majority of the total number of members of the Committee shall constitute a quorum at all Committee meetings.

If a quorum is present, a majority of the members of the Committee attending that meeting shall be empowered to act on behalf of the Committee. The Committee Chair shall preside at each meeting (or, if absent, a designee member of the Committee) and shall report on the activities of the Committee to the Board. Minutes shall be kept of each meeting of the Committee, which minutes will be filed with the minutes of the meetings of the Board.

As part of its goal to foster open communication, the Committee shall periodically meet separately with each of management, the Auditors and the internal auditors (or other personnel or service providers responsible for the internal audit function) to discuss any matters that the Committee or each of these groups believe would be appropriate to discuss privately. In addition, the Committee should meet with the Auditors and management quarterly to review the Company's financial statements.

#### 4. Committee Authority and Specific Functions

In assisting the Board in its oversight role, the Committee shall have full access to all books, records, facilities and personnel of the Company and shall have the authority, to the extent it deems necessary or appropriate, to retain special legal, accounting or other consultants and approve their retention terms. The Company shall provide appropriate funding, as determined by the Committee, for (a) payment of compensation to the Outside Auditors for the purpose of rendering or issuing an audit report or related work and to any outside advisors retained by the Committee; (b) payment of compensation to any special legal, accounting or other consultants retained by the Committee; and (c) payment of any ordinary administrative expenses of the Committee.

In carrying out its responsibilities, the Committee's policies and procedures should remain flexible, in order to react appropriately to changing conditions and to ensure to the Board and the Company's stockholders that the accounting and financial reporting practices of the Company are in accordance with all legal requirements and are of the highest quality. In carrying out these responsibilities, the Committee shall, to the extent it deems necessary and appropriate, perform the following functions:

##### Independent Audit Firm

- A. The Committee shall have the sole authority and responsibility to select, evaluate and, where appropriate, replace the Outside Auditors. The Committee shall be directly responsible for approving the level of compensation to be paid to the Outside Auditors and the oversight of the work of the Outside Auditors (including resolution of disagreements between management and the Outside Auditors regarding financial reporting) for the purpose of preparing or issuing an audit report or related work. The Outside Auditors shall report directly to the Committee.
- B. The Committee shall annually review and evaluate the qualifications, performance and independence of the Outside Auditors' lead audit partner and assure rotation of the lead audit partner and reviewing partner to the extent required by law or applicable regulatory authority, and evaluate the appropriateness of rotating the Outside Auditors, and provide its conclusions on such matters to the Board. The Committee shall review and approve the Company's hiring policies with respect to current and former employees and owners of the Company's current and former Outside Auditors.
- C. The Committee shall pre-approve all auditing services and permitted non-audit services (including the fees and terms thereof) to be performed for the Company by the Outside Auditors, subject to the de minimis exceptions for non-audit services described in the Exchange Act. The Committee may form and delegate authority to subcommittees consisting of one or more members, including the authority to grant preapprovals of audit and permitted non-audit services, provided that any decision of a subcommittee to grant preapprovals shall be presented to the Committee at its next scheduled meeting.
- D. On at least an annual basis, the Committee shall (a) obtain a formal written report of the Outside Auditors describing (i) the Outside Auditors' internal quality-control procedures, (ii) any material issues raised by the most recent internal quality-control review, or peer review of the Outside Auditors, or by any inquiry or investigation by governmental or professional authorities, within the preceding five years, respecting one or more independent audits carried out by the Outside Auditors, and any steps taken to deal with any such issues and (iii) any relationship between the Outside Auditors and the Company, consistent with the Public Company Accounting Oversight Board Rule 3526, "Communications with Audit Committee Concerning Independence"; (b) review and evaluate such report of the Outside Auditors and engage in a dialogue with the Outside

Auditors with respect to any disclosed relationship or services that may impact the Outside Auditors' objectivity and independence; and (c) take appropriate action in response to the Outside Auditors' report to satisfy itself of the Outside Auditors' independence.

#### Financial Statement and Disclosure Matters

- E. The Committee shall meet with the Outside Auditors and management of the Company to review the scope and general intent of the proposed audit and perform quarterly and annual reviews for the then current year. The Committee shall note whether any limitations have been placed on the scope or nature of the Outside Auditors' audit procedures and shall also inquire about the cooperation received by the Outside Auditors from Company employees during their audit, including their access to all requested Company records, data and information. At the conclusion of the annual audit, the Committee shall review such audit, including any comments or recommendations of the Outside Auditors.
- F. The Committee shall review with the Outside Auditors and management the adequacy and effectiveness of the accounting and internal controls over financial reporting of the Company and elicit any recommendations for the improvement of such internal controls or particular areas where new or more detailed controls or procedures are desirable. As part of this oversight responsibility, the Committee will review and discuss with management and, if appropriate, the Outside Auditors the responsibilities, budget and staffing of the Company's internal audit function. At such times as may be required under applicable laws and regulations, the Committee shall also review and discuss with management and the Outside Auditors (a) any annual report prepared by management with respect to the Company's internal control over financial reporting and (b) any attestation report pertaining thereto delivered by the Outside Auditors. The Committee will review with the Outside Auditors any accounting adjustments that were noted or proposed by the Outside Auditors but were "passed" (as immaterial or otherwise). The Committee shall also obtain from the Outside Auditors periodic assurances that the Outside Auditors are in compliance with all provisions of applicable law which require the Outside Auditors, if the Outside Auditors detect or become aware of any illegal act, to determine that the Committee has been informed and to provide a report to the Committee if the Outside Auditors have reached specified conclusions with respect to such illegal acts.
- G. The Committee shall discuss with management the Company's practices with respect to the types of information to be disclosed and the types of presentations to be made in earnings press releases, including the use of pro forma or "adjusted" non-GAAP information (if any), and financial information and earnings guidance, and shall also discuss with management and the Outside Auditors the effect of off-balance sheet structures, if any.
- H. The Committee shall review and discuss the Company's quarterly financial statements with management and the Outside Auditors prior to the filing of each quarterly report on Form 10-Q (and prior to the press release of financial results if possible) containing such quarterly financial statements to determine that the Outside Auditors do not take exception to the disclosure and content of the financial statements, and shall also discuss any other matters with respect thereto required to be communicated to the Committee by the Outside Auditors under generally accepted accounting standards. The Committee shall review and discuss the Company's annual financial statements with management and the Outside Auditors prior to the filing of each annual report on Form 10-K (and prior to the press release of financial results if possible) containing such annual financial

statements to determine that the Outside Auditors do not take exception to the disclosure and content of the financial statements, and shall also discuss any other matters with respect thereto required to be communicated to the Committee by the Outside Auditors under generally accepted accounting standards. The Committee shall also review and discuss with management and the Outside Auditors: (a) the results of their analysis of significant financial reporting issues and practices including changes in, or adoptions of accounting principles and disclosure practices; (b) the Outside Auditors' judgment about the quality, not just the acceptability, of accounting principles and the clarity of the financial disclosure practices used or proposed to be used and, particularly, the degree of aggressiveness or conservatism of the Company's accounting principles and underlying estimates, and other significant decisions made in preparing the financial statements; (c) any matters required to be communicated to the Committee by the Outside Auditors under generally accepted auditing standards; and (d) any other reports of the Outside Auditors required by law or professional auditing standards, including reports on: (i) critical accounting policies and practices used in preparing the financial statements; (ii) alternative treatments of financial information discussed with management, ramifications of such alternative disclosures and treatments, and the treatment preferred by the Outside Auditors; and (iii) other significant written communications between the Outside Auditors and Company management, such as any management letter issued or proposed to be issued, and a schedule of unadjusted differences, if any.

- I. The Committee must be satisfied that adequate procedures are in place for the review of the Company's disclosure (whether in filings with the SEC, press releases or other published documents) of financial information derived or extracted from the Company's financial statements. The Committee shall consider whether the information contained in these documents is consistent with the information contained in the financial statements.
- J. The Committee shall review disclosures, if any, made by the Company's Chief Executive Officer and Chief Financial Officer during their certification process for the Company's periodic reports regarding: (a) all significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting which are reasonably likely to affect adversely the Company's ability to record, process, summarize and report financial information; and (b) any fraud, whether or not material, that involves management or other employees who have a role in the Company's internal controls over financial reporting.
- K. The Committee shall prepare and publish a Committee report for inclusion in the Company's annual proxy statement and provide any additional disclosures in the proxy statement or the Company's annual report on Form 10-K as required under the rules of the Exchange Act or as may be required to be made under the rules and regulations of the SEC or Nasdaq.

#### Legal, Regulatory, Compliance and Risk Oversight

- L. The Committee shall discuss with the Outside Auditors the quality of the Company's financial and accounting personnel and shall also elicit the comments of management regarding the responsiveness of the Outside Auditors to the Company's needs.
- M. The Committee shall review and approve any "related party" transactions (as defined in SEC regulations) involving the Company and officers, directors or stockholders beneficially owning more than 5% of any class of equity security of the Company.

- N. Generally, as part of its review of the Company's financial statements, the Committee shall have access to and receive oral reports, if desired, from the Company's outside counsel concerning (a) legal and regulatory matters that may have a material impact on the financial statements, including any material reserves for legal contingencies and any related financial statement disclosure and (b) the scope and effectiveness of the Company's legal and financial regulatory compliance policies and programs.
- O. The Committee shall consider such other matters in relation to the financial affair of the Company and in relation to the audit of the Company's financial statements as the Committee may, in its discretion, determine to be advisable and shall perform any other duties consistent with this Charter, the Company's Certificate of Incorporation, By-laws and governing laws as the Committee or the Board deems necessary.
- P. The Committee shall review material pending or potential legal and financial regulatory matters affecting the Company.
- Q. The Committee shall periodically review risks relating to financial statements, the auditing and financial reporting process, and key credit risks, liquidity risks and market risks and inquire of management, the service provider performing the Company's internal control testing and the Outside Auditor about the Company's major financial and auditing risks or exposures. The Committee shall discuss with management and, as appropriate, the service provider performing internal control testing and/or the Outside Auditor, the Company's risk management and risk assessment guidelines and policies relating to the Company's accounting and financial risk exposures and the steps management has taken to monitor and control such exposures. The Committee shall identify for the Board any risk or compliance matter that merits a remediation or action plan.
- R. The Committee shall periodically review the Company's compliance, performance and governance processes against the risk measures and limits contained in the Company's Code of Business Conduct and Ethics or other compliance policies, and assist the Board in review of significant breaches, violations or waivers of the Company's Code of Business Conduct and Ethics or other compliance policies.
- S. The Committee will review with management the Company's investment philosophy and policies, including management of investment risk and applicable policies pertinent to the Company's investment portfolio.

#### Committee Charter Review and Self-Evaluation

- T. The Committee shall obtain the Board's approval of this Charter, review and reassess the adequacy of this Charter annually and recommend any proposed changes to the Board for approval.
- U. The Committee shall annually review the Committee's own performance and present a report to the Board of the performance evaluation of the Committee.

### **5. Receipt and Treatment of Complaints**

The Committee shall establish and oversee procedures for the receipt, retention, and treatment of complaints received by the Company regarding accounting, internal accounting controls, auditing or other matters, and for the confidential or anonymous submission by employees of the Company of concerns regarding questionable accounting, auditing or other matters.

The Committee will investigate any matter brought to the attention of the Committee within the scope of its duties if, in the judgment of the Committee, such investigation is necessary or appropriate.

## **6. Limitation of Committee's Role**

While the Committee has the responsibilities and powers set forth in this Charter, it is not the duty of the Committee to plan or conduct audits or to determine that the Company's financial statements are complete and accurate and are in accordance with generally accepted accounting principles and applicable laws, rules and regulations. Management is responsible for the financial reporting process, including the system of internal control over financial reporting and for the preparation of financial statements in accordance with generally accepted accounting principles. The Company's Outside Auditors are responsible for auditing those financial statements and expressing an opinion as to their conformity with generally accepted accounting principles. The Committee's responsibility is to oversee and review these processes. Each member of the Committee shall be entitled to rely on information, opinions, reports or statements, including financial statement and other financial data, prepared or presented by officers and employees of the Company, legal counsel, the Outside Auditors or other persons with professional or expert competence.