



# Corporate Governance Statement

Ellex Medical Lasers Limited

ACN 007 702 927

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This statement reports Ellex Medical Lasers Limited's (Ellex or the Company) compliance against the 3rd Edition of the ASX Corporate Governance Council's Corporate Governance Principles and Recommendations as at June 2015 and it has been approved by the Board of the Company.

Where the Company's compliance with the Principles and Recommendations is reflected in a separate document or policy, a reference to the location of that document or policy is included in this statement.

References in this statement to "reporting period" are to the financial year ended 30 June 2015.

This statement refers to the Company's 2015 Annual report. A copy of the 2015 Annual Report can be found at [www.ellex.com](http://www.ellex.com).

The charters, codes and policies relating to Ellex corporate governance practices referred to in this Statement are available on the corporate governance section of Ellex website [www.ellex.com](http://www.ellex.com).

## Principle 1 - Lay solid foundations for management and oversight

### Recommendation 1.1

*A listed entity should disclose:*

- (a) the respective roles and responsibilities of its board and management; and*
- (b) those matters expressly reserved to the board and those delegated to management.*

The Company's Board Charter sets out (amongst other things) the roles and responsibilities of the Board and of management and matters reserved to the Board.

A copy of the Board Charter is located in the corporate section of Ellex website [www.ellex.com](http://www.ellex.com)

The Board Charter sets out the following objectives of the Board:

- Provide strategic guidance for Ellex and effect oversight of management.
- Optimise Ellex's performance and shareholder value within a framework of appropriate risk assessment and management and
- Recognise Ellex's legal and other obligations to all legitimate stakeholders.

The Ellex Board (Board) is responsible for the overall corporate governance of Ellex. The Board derives the authority to act from the Company's Constitution and the Board's responsibilities are encompassed in a formal Charter which the Board is responsible for reviewing and amending as required.

The matters that the Board has specifically reserved for its decision are:

- Oversight of the Company, including its controls and accountability systems
- Providing input into, reviewing and approving Ellex's strategic performance objectives and monitoring performance against those plans;
- Protecting Ellex's financial position and its ability to meet its debts as and when they fall due;
- Approving and monitoring the progress of major capital expenditure, capital management and acquisitions and divestitures;
- Reviewing and monitoring the progress of Ellex's systems of risk management and internal control.
- Appointing, approving terms of engagement and termination benefits, and monitoring the performance of the CEO and, if required, terminating the appointment of the CEO.
- Ratifying the appointment and removal of the Company Secretary, approving their terms of engagement and monitoring their performance.
- Monitoring the timeliness and effectiveness of communications with shareholders and other stakeholders.

While at times the Board retains full responsibility for guiding and monitoring Ellex, in discharging its responsibilities it makes use of Board Committees.

Specialist committees can focus on a particular area of responsibility, and report and provide recommendations to the Board. The Board has established the following standing Committees:

- Audit and Risk Committee (see principles 4 and 7)
- Remuneration Committee (see principle 8) and

The Board has delegated to the CEO and, through the CEO, to the Management Team responsibility for the day-to-day management and operations of Ellex and implementation of the Company's strategy and policy initiatives. The CEO and Management Team are accountable to the Board for performance of these duties.

Specific limits on the authority delegated to CEO and the Management Team are set out in the Board-approved Delegation of Authority Policy.

The Management Team comprises of the CEO and the direct reports to the CEO. (see Recommendation 1.3)

## Recommendation 1.2

*A listed entity should:*

- undertake appropriate checks before appointing a person, or putting forward to security holders a candidate for election, as a director; and*
- provide security holders with all material information in its possession relevant to a decision on whether or not to elect or re-elect a director.*

When a vacancy arises, the Board considers candidates with a broad range of financial and other skills, experience and expertise from a diverse range of backgrounds. Candidates are considered on merit and against objective criteria, and with due regard for the benefits of diversity on the Board.

When the Board considers that a suitable candidate has been found, that person is appointed by the Board to fill a casual vacancy in accordance with Ellex's Constitution, but must stand for election by Shareholders at the next Annual General Meeting (AGM).

New directors are given a thorough briefing by the Remuneration Committee on key Board issues and provided with appropriate induction documentation in compliance with Australian Quality Standard AS/NZS ISO 13485-2003.

The director's interest register is reviewed annually by the Board directors and updated with current and previous positions, directorships and any potential conflicts of interests.

All material information relevant to a shareholder's decision whether to elect or re-elect a director is provided to shareholders in the Company's Notice of Annual General Meeting. The following information is provided to Shareholders to enable them to make an informed decision on whether or not to elect or re-elect the candidates.

- Biographical details, including their relevant qualifications and experience and the skills they bring to the board;
- Details of other material directorships held by the candidate;
- The term of office currently served by the director; and
- A statement by the board as to whether it supports the election or re-election of the candidate.

## Recommendation 1.3

A listed entity should have a written agreement with each director and senior executive setting out the terms of their appointment.

The Company has a written agreement with each director and executive setting out the terms of their appointment.

#### Recommendation 1.4

*The company secretary of a listed entity should be accountable directly to the board, through the chair, on all matters to do with the proper functioning of the board.*

The Company Secretary has a direct line of reporting to the Chairman and is responsible for:

- monitor that Board policy and procedures are followed;
- organise Board meetings and Director attendance;
- co-ordinate the completion and dispatch of the Board agenda and briefing materials;
- prepare minutes of meetings and resolutions of the Board and take these to the Chair for approval and circulation and;
- ensure Ellex's compliance with its requirements under the Corporations Act regarding registered office, annual returns and notices to be lodged with the Australian Securities and Investments Commission and ASX

The responsibilities of the Company Secretary are set out in the Board Charter.

#### Recommendation 1.5

*A listed entity should:*

- (a) *have a diversity policy which includes requirements for the board or a relevant committee of the board to set measurable objectives for achieving gender diversity and to assess annually both the objectives and the entity's progress in achieving them;*
- (b) *disclose that policy or a summary of it; and*
- (c) *disclose as at the end of each reporting period the measurable objectives for achieving gender diversity set by the board or a relevant committee of the board in accordance with the entity's diversity policy and its progress towards achieving them, and either:*
  - (i) *the respective proportions of men and women on the board, in senior executive positions and across the whole organisation (including how the entity has defined "senior executive" for these purposes); or*
  - (ii) *if the entity is a "relevant employer" under the Workplace Gender Equality Act, the entity's most recent "Gender Equality Indicators", as defined in and published under that Act.*

Given the size of the Company and the nature of its operations, the directors believe that it is not appropriate at this stage to set measurable objectives in relation to diversity that may constrain the Company's ability to recruit solely on merit.

The Company is the only publicly listed ophthalmic laser manufacturer in Australia, and one of only a dozen such manufacturers worldwide. Recruiting qualified and experienced staff is, and has been, a significant challenge during the Company's 30 year history. With an extremely limited pool of appropriate candidates for many roles throughout the organisation, the Company considers that it would be detrimental to shareholder interests to recruit on any basis other than merit.

Notwithstanding this, as an international employer across four continents, the Company's consistent practice is to hire and promote the best available person for any given role, irrespective of gender, age, ethnicity or cultural background. The Company is an equal opportunity employer and this is reflected in the current diversity of its workforce.

As the Company grows and diversifies, the Board will continue to consider whether it is appropriate to implement a formal diversity policy.

The entity is a “relevant employer” under the Workplace Gender Equality Act. In June 2015, the Company submitted a report for the 2014-15 period which set out its “Gender Quality Indicators”. A copy of this report is located at Ellex Corporate Governance section [www.ellex.com](http://www.ellex.com) for the **Workplace Gender Report**

## Recommendation 1.6

*A listed entity should:*

- (a) have and disclose a process for periodically evaluating the performance of the board, its committees and individual directors; and*
- (b) disclose, in relation to each reporting period, whether a performance evaluation was undertaken in the reporting period in accordance with that process.*

The performance of the Board, of each of its Committees, the Chairman and each director is reviewed annually against appropriate criteria in a manner that the Board deems appropriate.

The review will be minuted in the relevant Committee and Board minutes for reference.

## Recommendation 1.7

*A listed entity should:*

- (a) have and disclose a process for periodically evaluating the performance of its senior executives; and*
- (b) disclose, in relation to each reporting period, whether a performance evaluation was undertaken in the reporting period in accordance with that process.*

The performance of senior executives is reviewed annually against key performance measures as part of Ellex’s performance management system, which is in place for managers and employees.

The system includes processes for the setting of key measures at the commencement of the financial year and the annual assessment of performance against these measures. Some performance measures are on Ellex’s overall financial performance and other performance measures are specifically set in line with the individual role and responsibilities of the Management Team member.

The Remuneration Committee performance review the overall human resources strategy and monitor its implementation and effectiveness and make recommendations to the Board.

The committee will review and determine the remuneration policy, both short and longer term, including but not limited to fixed, performance and equity based remuneration as well as termination arrangements.

During the reporting period, a performance evaluation of the senior executives was undertaken by the Company in accordance with agreed processes.

Details of the evaluation process and the result of performance evaluations are disclosed in the Remuneration Report in the 2015 Annual Report.

## Principle 2 - Structure the board to add value

### Recommendation 2.1

*The board of a listed entity should:*

- (a) *have a nomination committee which:*
  - (i) *has at least three members, a majority of whom are independent directors; and*
  - (ii) *is chaired by an independent director,*  
*and disclose:*
    - (iii) *the charter of the committee;*
    - (iv) *the members of the committee; and*
    - (v) *as at the end of each reporting period, the number of times the committee met throughout the period and the individual attendances of the members at those meetings; or*
- (b) *if it does not have a nomination committee, disclose that fact and the processes it employs to address board succession issues and to ensure that the board has the appropriate balance of skills, knowledge, experience, independence and diversity to enable it to discharge its duties and responsibilities effectively.*

Given the size of the Company, the role of the Nomination Committee is undertaken by the Board itself. An annual review of the board's mix of skill set is undertaken to add value to shareholders.

### Recommendation 2.2

*A listed entity should have and disclose a board skills matrix setting out the mix of skills and diversity that the board currently has or is looking to achieve in its membership.*

#### **Skills and Experience (out of 5 directors)**

To indicate relevant skill set and experience as per below:

1	Leadership and Governance	
	a. Leadership	5
	b. Corporate Governance	5
	c. Strategy	5
2	Operations	
	a. Health & Safety	3
	b. Engineering	3
	c. Project Delivery	4
3	Sector Experience	
	a. Ophthalmology	2
	b. Innovation	5
	c. Intellectual Property	4
	d. Manufacturing	2

4.	Geographical Experience	
	a. Asia	1
	b. Europe	2
	c. USA	2
	d. Middle East	1
5.	Finance & Risk	
	a. Accounting	2
	b. Finance	5
	c. Acquisition	5
	d. Risk	5
6.	People	
	a. Human resources	4
7.	Technology	
	a. Technology	5

### Recommendation 2.3

*A listed entity should disclose:*

- (a) *the names of the directors considered by the board to be independent directors;*
- (b) *if a director has an interest, position, association or relationship of the type described in Box 2.3 but the board is of the opinion that it does not compromise the independence of the director, the nature of the interest, position, association or relationship in question and an explanation of why the board is of that opinion; and*
- (c) *the length of service of each director.*

Details of the Company's independent directors, and the length of service of each director, is set out in the Director's Report contained in the 2015 Annual Report.

### Recommendation 2.4

*A majority of the board of a listed entity should be independent directors.*

A majority of the Company's Board are independent directors 3 out of the 5 directors are independent.

Given the size and specialised nature of its operation an in-depth understanding and detailed knowledge of the Company and its issues, greater access to information and a high degree of knowledge in the field is regarded to add Board value.

In determining whether a director is independent, the Boards consider whether the Director:

- has been employed in an executive capacity by Ellex and there has been a gap of more than 3 years between ceasing that employment and serving on the board
- is or has within the last 3 years been:
  - ♦ a partner, director, senior employee of a provider of material services to Ellex; or
  - ♦ in a material business relationship with Ellex, or associated with such a relationship;
- is a, or an officer of, a substantial security holder of Ellex;
- has a material contractual relationship with Ellex other than as director;
- has close family ties with any person that falls within the categories above; or
- has been a director for such a period that independence may be compromised eg 10 yrs

## Recommendation 2.5

*The chair of the board of a listed entity should be an independent director and, in particular, should not be the same person as the CEO of the entity.*

The chair of the Board is not the same person as the CEO.

The chair is not an independent director, as given the size and structure of the Board the directors have formed the view that an Executive Director is able to guide and lead the Board effectively. The position of the chair is not compromised with the day to day role of the Executive Director as an employee of Ellex.

## Recommendation 2.6

A listed entity should have a program for inducting new directors and provide appropriate professional development opportunities for directors to develop and maintain the skills and knowledge needed to perform their role as directors effectively.

The Company educates new directors about the nature of its business, current issues, the corporate strategy and the expectations concerning performance of directors. Directors also have the opportunity to visit group facilities and meet with management to gain a better understanding of the Company's business operations.

The Company encourages its directors to perform at their maximum potential through encouraging the philosophy of continuous learning. Continuous learning may include participation in Company provided training programs or externally provided professional development programs.

The Company has discretion to subsidise the cost of its directors to attend work related training courses and seminars, including meeting the reasonable costs associated with education, training and reference books.

## Principle 3 - Act ethically and responsibly

### Recommendation 3.1

*A listed entity should:*

- (a) have a code of conduct for its directors, senior executives and employees; and*
- (b) disclose that code or a summary of it.*

The Company has a Code of Conduct that sets out the standards of behaviour expected of all its employees, managers and directors. The Code of Conduct is located at:

## Principle 4 - Safeguard integrity in corporate reporting

### Recommendation 4.1

*The board of a listed entity should:*

- (a) *have an audit committee which:*
  - (i) *has at least three members, all of whom are non-executive directors and a majority of whom are independent directors; and*
  - (ii) *is chaired by an independent director, who is not the chair of the board,*
- and disclose:*
  - (iii) *the charter of the committee;*
  - (iv) *the relevant qualifications and experience of the members of the committee; and*
  - (v) *in relation to each reporting period, the number of times the committee met throughout the period and the individual attendances of the members at those meetings; or*
- (b) *if it does not have an audit committee, disclose that fact and the processes it employs that independently verify and safeguard the integrity of its corporate reporting, including the processes for the appointment and removal of the external auditor and the rotation of the audit engagement partner.*

The Company has established an Audit & Risk Committee which comprises 1 independent director, 1 non-executive director and 1 executive director. The Audit & Risk Committee is chaired by a director who is not the Chair of the Board, but is not an independent director.

Under its Charter, the Audit & Risk committee must be made up of at least 50% of non-executive or independent directors. The Charter requires that at least one member has relevant financial qualifications and expertise (Alex Sundich)

Given the size and structure of the Company's Board, the directors have formed the view that it is appropriate that the Audit & Risk Committee comprises directors that are not independent.

The Audit & Risk Committee's primary responsibilities include:

- Monitoring the integrity of financial reporting.
- Monitoring the effectiveness of financial risk management processes.
- Monitoring the effectiveness of the internal controls environment.
- Monitoring and reviewing the external auditor's qualification, performance and independence.
- Reviewing the Company's risk management policy application and effectiveness; and
- Monitoring legislative and regulatory compliance.

The external auditor is precluded from providing any services that might threaten their independence, or conflict with assurance and compliance role.

The Directors have concluded that non-audit services provided during the financial year did not compromise the external auditor's independence requirements under the Corporations Act, 2001.

The internal audit function may not be performed by the external auditors.

Discussion of the Audit & Risk Committee's involvement in business risks is disclosed under Recommendation 7.1.

The Audit & Risk Committee's Charter is located at:

The Committee's members and their relevant qualifications and experience, the number of times the Committee met throughout the reporting period and the attendance of the Committee's members at those meetings is set out in the 2015 Annual Report.

#### **Recommendation 4.2**

The board of a listed entity should, before it approves the entity's financial statements for a financial period, receive from its CEO and CFO a declaration that, in their opinion, the financial records of the entity have been properly maintained and that the financial statements comply with the appropriate accounting standards and give a true and fair view of the financial position and performance of the entity and that the opinion has been formed on the basis of a sound system of risk management and internal control which is operating effectively.

The Company has received a declaration in the form set out in Recommendation 4.2 from its CEO and CFO in relation to the financial statements for the financial period ended 30 June 2015 and for the half year ended 31 December 2014.

#### **Recommendation 4.3**

A listed entity that has an AGM should ensure that its external auditor attends its AGM and is available to answer questions from security holders relevant to the audit.

The Company's external auditor attends each AGM of the Company and is available to answer questions from security holders relevant to the audit.

## Principle 5 - Make timely and balanced disclosure

### Recommendation 5.1

*A listed entity should:*

- (a) have a written policy for complying with its continuous disclosure obligations under the Listing Rules; and*
- (b) disclose that policy or a summary of it.*

The Company has a Continuous Disclosure Policy that identifies matters to be disclosed to the market and the process for notifying them to ASX. The Continuous Disclosure Policy is located at:

Ellex complies with its disclosure obligations under the ASX Listing Rules and Corporations Act, 2001 and has in place established procedures dealing with compliance.

Ellex has a Continuous Disclosure Policy that establishes a framework to enable Ellex to provide shareholders and the market generally with timely, direct and equal access to relevant information about the Company.

The Board is responsible for considering and approving ASX announcements containing Material Information based on the recommendations of management and Board members.

Communication with the financial market, investors and media is the responsibility of the Chairperson and CEO. The Continuous Disclosure Policy covers briefings to investors, general briefings, one-on-one briefings, blackout periods, compliance and review.

## Principle 6 - Respect the rights of security holders

### Recommendation 6.1

*A listed entity should provide information about itself and its governance to investors via its website.*

Information about the Company and its operations is located at <http://www.ellex.com/company/overview/>

Information about the Company's corporate governance (including links to the Company's corporate governance policies and charters) is located at [www.ellex.com](http://www.ellex.com)

### Recommendation 6.2

*A listed entity should design and implement an investor relations program to facilitate effective two-way communication with investors.*

The Company has processes that are followed by the Company to ensure effective communication with investors.

The Board informs shareholders of all major developments affecting the Company's state of affairs as follows:

- The Annual General Meeting provides a forum for all shareholders to interact with directors on activities of the Company.
- The full 2015 Annual Report is distributed to all shareholders who request a copy and includes relevant information about the operations of the Company during the year, changes in the state of affairs and details of future developments.
- Proposed major changes in the equity holdings which may impact on share ownership rights are submitted to a vote of shareholders.
- Any information which the Board considers worthy of disclosure to shareholders is activated by release to ASX, in accordance with continuous disclosure obligations.

Ellex's website allows shareholders to access Board and Committee charters, corporate governance policies, ASX announcements, annual and half year reports, information for shareholder meetings, investor presentations and other corporate information.

Ellex seeks to ensure that all investors have equal and timely access to price sensitive information.

Prior to making a presentation to investors or stock broking analysts, Ellex will lodge the presentation material with the ASX so that all shareholders can access the information. Ellex will not expressly or implicitly provide investors, stock broking analyst or media with forecast profit guidance, unless that information has been disclosed previously to the ASX.

### Recommendation 6.3

*A listed entity should disclose the policies and processes it has in place to facilitate and encourage participation at meetings of security holders.*

The Company has in place to facilitate and encourage participation at meetings of security holders including allowing shareholders to vote online prior to an Annual General Meeting

### Recommendation 6.4

*A listed entity should give security holders the option to receive communications from, and send communications to, the entity and its security registry electronically.*

Shareholders have the option of electing to receive all shareholder communications by email.

The Company gives security holders the option to receive communications from, and send communications to, the Company and its security registry electronically, as provided for in the Company's Shareholders Communications Policy.

## Principle 7 - Recognise and manage risk

### Recommendation 7.1

*The board of a listed entity should:*

- (a) *have a committee or committees to oversee risk, each of which:*
  - (i) *has at least three members, a majority of whom are independent directors; and*
  - (ii) *is chaired by an independent director,*

*and disclose:*

  - (iii) *the charter of the committee;*
  - (iv) *the members of the committee; and*
  - (v) *as at the end of each reporting period, the number of times the committee met throughout the period and the individual attendances of the members at those meetings; or*
- (b) *if it does not have risk committee or committees that satisfy (a) above, disclose that fact and the processes it employs for overseeing the entity's risk management framework.*

The Company has established an Audit & Risk Committee to oversee risk.

Given the size and structure of the Company's Board, the directors have formed the view that it is appropriate to have a combined Audit and Risk Committee comprises directors that are not independent.

The Committee's members and their relevant qualifications and experience, the number of times the Committee met throughout the reporting period and the attendance of the Committee's members at those meetings is set out in the 2015 Annual Report.

### Recommendation 7.2

*The board or a committee of the board should:*

- (a) *review the entity's risk management framework at least annually to satisfy itself that it continues to be sound; and*
- (b) *disclose, in relation to each reporting period, whether such a review has taken place.*

The Board is responsible for the oversight of Ellex's risk management and control framework.

The Audit & Risk Committee assists the Board in fulfilling responsibilities in this regard.

The CEO and Management Team are responsible for the design and implementation of risk management systems and managing the material business risks.

Risk exposure stem from Ellex's business risk profile which covers areas including operations, environment, brand and reputation, compliance, finance, information and strategic. Ellex recognises that risk management can also include identifying opportunities that create value for the business and shareholders.

In the reporting period, a review of the Company's risk management framework was undertaken.

### Recommendation 7.3

*A listed entity should disclose:*

- (a) if it has an internal audit function, how the function is structured and what role it performs; or*
- (b) if it does not have an internal audit function, that fact and the processes it employs for evaluating and continually improving the effectiveness of its risk management and internal control processes.*

The Board considers it appropriate for management to undertake ongoing evaluation of the Company's internal control and risk management processes, the company has an internal control framework which includes financial reporting controls, mechanisms to ensure quality and integrity of personnel, operating unit controls and investment appraisals.

An internal audit was performed, by an external resource, in the reporting period for the largest growing subsidiary in the group (Ellex Inc. USA). The recommendations from the internal audit were reviewed by the Audit & Risk Committee and implemented accordingly.

These recommendations have assisted as a risk management framework for all wholly owned subsidiaries of Ellex.

### Recommendation 7.4

*A listed entity should disclose whether it has any material exposure to economic, environmental and social sustainability risks and, if it does, how it manages or intends to manage those risks.*

The Company, as an ophthalmic laser manufacturer with overseas operations, faces inherent risks in its activities which may materially impact the Company's ability to create or preserve value for security holders. Such risks include actions by competitors, government policy changes, the impact of exchange rate movements and difficulties in sourcing supplies.

The Company has in place policies and procedures which are continually being developed and updated to help manage these risks.

Further information as to the Company's policies relating to interest rate management, forward exchange rate management and credit risk management are included in note 30 of the financial statements in the 2015 Annual Report.

## Principle 8 - Remunerate fairly and responsibly

### Recommendation 8.1

*The board of a listed entity should:*

- (a) *have a remuneration committee which:*
  - (i) *has at least three members, a majority of whom are independent directors; and*
  - (ii) *is chaired by an independent director,*

*and disclose:*

  - (iii) *the charter of the committee;*
  - (iv) *the members of the committee; and*
  - (v) *as at the end of each reporting period, the number of times the committee met throughout the period and the individual attendances of the members at those meetings; or*
- (b) *if it does not have risk committee, disclose that fact and the processes it employs for setting the level and composition of remuneration for directors and senior executives and ensuring that remuneration is appropriate and not excessive.*

The Company has established a Remuneration Committee which comprises 2 independent directors and 1 executive director, the majority of whom are independent directors and which is chaired by an independent director. The executive director is not involved in deciding his own remuneration or in setting the remuneration of other executives where it may indirectly impact on his remuneration.

The Remuneration Committee's Charter is located at [www.ellex.com](http://www.ellex.com)

The Committee's members and their relevant qualifications and experience, the number of times the Committee met throughout the reporting period and the attendance of the Committee's members at those meetings is set out in the 2015 Annual Report.

### Recommendation 8.2

*A listed entity should separately disclose its policies and practices regarding the remuneration of non-executive directors and the remuneration of executive directors and other senior executives.*

The Company's policies and practices regarding the remuneration of non-executive directors and the remuneration of executive directors and other senior executives is set out in the Remuneration Report contained in the Company's 2015 Annual Report.

### Recommendation 8.3

*A listed entity which has an equity-based remuneration scheme should:*

- (a) *have a policy on whether participants are permitted to enter into transactions (whether through the use of derivatives or otherwise) which limit the economic risk of participating in the scheme; and*
- (b) *disclose that policy or a summary of it.*

Ellex does not have an equity-based remuneration scheme in the current reporting period.

END