



NACCHO

TEMPLATE CHARTER OF CORPORATE GOVERNANCE

NACCHO has developed this example of a de-identified, template *Charter of Corporate Governance* for consideration by Member Organisations, as a service to improve governance of ACCHOs.

The Charter is best suited to ACCHOs which are incorporated under the *Corporations Act 2001 (Cth)*.

The Charter has been adapted from Nicholson & Kiel, “*Boards That Work*” and governance strengthening programmes funded by the Commonwealth Department of Health and delivered by *Effective Governance*.

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[INSERT ACCHO'S NAME] Corporate Governance Charter

Part 1: Defining Governance Roles

1. The Roles of the Board

The Board's authority to govern [INSERT ACCHO'S NAME] comes from the Act under which it has been incorporated, the *Corporations Act 2001 (Cth)* as amended.

The Board of [INSERT ACCHO'S NAME] has six roles. They are:

1.1 Strategy formulation and approval

The Board approves and adapts the strategic directions for [INSERT ACCHO'S NAME].

- This includes setting major goals for the sustainability and the growth of [INSERT ACCHO'S NAME]. The Board will use the professional and technical advice provided by the senior management team and by credible third parties including the National Aboriginal Community Controlled Health Organisation (NACCHO).
- The Board sets corporate strategy by:
 - (i) approving the triennial *Strategic Plan* which incorporates an analysis of the external environment and its impacts on [INSERT ACCHO'S NAME], the corporation's strategic directions, and a risk management analysis. The *Strategic Plan* is updated annually, preferably at the same time as the Board is approving the annual *Action Plan* – see (ii) below. The Board may decide to convene focused workshop sessions, possibly externally facilitated, for preparation and review of its *Strategic Plan*.
 - (ii) approving the annual *Action Plan* in April-May each year for the following financial year, making sure that its 'measures' are aligned with the approved strategic directions – within the constraints of available financial and human resources.
 - (iii) approving the annual [INSERT ACCHO'S NAME] Budget for the core Secretariat and all service delivery and program business units. The income and expenditure components of the Budget must be tightly

aligned with the annual *Action Plan* and should be completed as an advanced draft in May each year.

- (iv) installing an entrepreneurial rapid response capability, which will consist of Board teleconferencing and/or 'flying minutes' for urgent decision making. This capability is required to adapt to emerging business opportunities as well as to significant and unexpected changes in Budget realities.

1.2 Chief Executive Officer (CEO) management

The Board is responsible for appointing, advising, monitoring and evaluating the CEO.

- This includes the following responsibilities:
 - (i) selecting the CEO and appointing her/him;
 - (ii) deciding the CEO's remuneration, that is, her/his wage and non-wage package;
 - (iii) monitoring her/his performance based on evidence of her/his accomplishments, the quality of the reports she/he presents, the performance of the staff, and the servicing of Board meetings;
 - (iv) evaluating her/his performance in managing the staff to accomplish the goals set in the *Action Plan*;
 - (v) providing mentor support to the CEO and/or arranging for an external mentor for the CEO if required;
 - (vi) removing the CEO through suspension or termination.

Authority relationships between elected Boards and CEOs can be the source of unproductive tensions and conflicts in companies, so to minimise the scope for authority disputes the following matters are the prerogative of the Board:

- ❖ investing in, or seeking funding for, major capital expenditure including all buildings and premises;
- ❖ approving lease conditions and signing leases;
- ❖ starting new business/service activities, terminating existing business/service activities, or approving major changes to existing business/service activities;
- ❖ endorsing the principles for and approaches to employment arrangements for all employees, including Award coverage;
- ❖ appointments of the Auditor – to be confirmed at Annual General Meetings;
- ❖ investing [INSERT ACCHO'S NAME] funds;
- ❖ granting or revoking a power of attorney or limited authority to sign and/or act on behalf of [INSERT ACCHO'S NAME].

1.3 Monitor organisational performance

Performance monitoring is an essential Board task that aims to achieve two objectives:

- (a) Ensuring that corporate performance – both financial and non-financial – is consistent with [INSERT ACCHO'S NAME]'s approved strategic directions; and
- (b) Ensuring that [INSERT ACCHO'S NAME]'s elected Directors and Officers are complying with their legal obligations; this also applies to any delegations the Board has approved to senior managers such as the CEO.

In Aboriginal and Islander Community Controlled Health Organisations such as [INSERT ACCHO'S NAME], performance monitoring against strategic business directions has been facilitated by the widespread adoption of annual *Action Plans* that apply a template format for reporting against Key Performance Indicator (KPI) implementation 'measures'; by linking annual Budgets to these *Action Plans*; and by the growing practice of tracking progress with implementation by using a 'traffic light' reporting methodology.

- Performance monitoring by the [INSERT ACCHO'S NAME] Board includes a number of important mechanisms and decisions, such as:
 - (i) reviewing quarterly reports on income and expenditure provided by the [INSERT ACCHO'S NAME] CEO but prepared in conjunction with the Chief Finance Officer. These reports should present detailed tabular data on income streams and expenditure items budgeted as well as year-to-date, with advisory remarks to the Board about significant over and under status. Financial reports can be required on a more frequent basis by the Board if it is concerned about the organisation's financial situation
 - (ii) at least twice a year conducting a Board review of the *Action Plan*, focusing on the completion of "*Measures*" against the Commonwealth Department of Health's obligatory Key Performance Indicators (KPIs). From a risk management perspective, the mid-year review is a useful opportunity for a stocktake of progress that provides the Board with plenty of warning about under-performance or even lack of accomplishment so there is time to take remedial action. This mid-year review should be held around October. The end of year review should be held in March or April, which is before the preparation of the next year's *Action Plan*, so the results of the review can be used to make any essential adjustments to the *Action Plan* and its related Budget.

- (iii) approving a *Performance Management System* that requires each staff member to develop a personal work plan for the year based on the *Action Plan* and being assessed on achievements by her/his supervisor. Training and development plans are an optional feature of this *System*, but approval for any training or development activity that involves costs will always be dependent upon the availability of funds and must be approved in the annual Budget by the Board.

1.4 Risk management

The primary objectives of the risk management system at [INSERT ACCHO'S NAME] are to ensure:

- ❖ all major sources of potential opportunity for and harm to [INSERT ACCHO'S NAME], both existing and potential, are identified, analysed and treated appropriately;
 - ❖ business decisions throughout [INSERT ACCHO'S NAME] appropriately balance the risk and reward trade-off;
 - ❖ regulatory compliance and integrity in reporting are achieved; and
 - ❖ the Board and senior managers understand the risk profile of [INSERT ACCHO'S NAME] and together they establish the appropriate 'risk culture' that drives [INSERT ACCHO'S NAME] in all its business operations.
- The risk management system includes at least five important processes:
 - (i) Identifying and documenting responses to key risks in a *Risk Management Plan* that is incorporated into the [INSERT ACCHO'S NAME]'s *Strategic Plan*. The *Risk Management Plan* is reviewed annually in the context of annual reviews and updates of the [INSERT ACCHO'S NAME] *Strategic Plan*. [INSERT ACCHO'S NAME] Board may approve a presentation format for its *Risk Management Plan* comprised of four elements:
 - Classification of risks as 'legal', 'physical', 'financial' or 'products and markets/services and clients';
 - rating each of the risks as 'high', 'medium' or 'low';
 - describing the nature of each risk; and
 - documenting measures to manage, mitigate or eliminate those risks.
 - (ii) Putting in place a top level policy framework for the efficient and effective management of business operations. For [INSERT ACCHO'S NAME], this framework consists of the *Finance Policy & Procedure Manual* and the *Human Resources Policy & Procedure Manual*. These *Manuals* are supplemented by orientation/induction programs for new Board Directors and for new employees. The CEO will be formally accountable for implementing the policies and procedures in the *Manuals*.

- (iii) Putting in place delegations to govern compliance with corporate policies and procedures. The most important delegations are spelled out in the position description for the CEO and in terms of reference for any committees that the Board may establish. There can also be detailed, written operational delegations relating to finance, employment/termination of staff, and asset control in the [INSERT ACCHO'S NAME] *Finance Policy & Procedure Manual*.
- (iv) Monitoring compliance with corporate policies and procedures, through reports to the Board. The highest risk issues in a corporation are usually around finances.
- (v) Mandating acceptable practices and behaviours and prohibiting unacceptable practices and behaviours. This is typically managed through such mechanisms as *Codes of Conduct* for Board and Staff, *Confidentiality Agreements*, and *Conflict of Interest* rules.

1.5 Network on behalf of [INSERT ACCHO'S NAME]

Developing business networks and working to promote the reputation of [INSERT ACCHO'S NAME] are important ways for the Directors to add value to [INSERT ACCHO'S NAME].

Directors are expected to act as ambassadors for [INSERT ACCHO'S NAME], and are expected to develop and maintain connections for the benefit of [INSERT ACCHO'S NAME]. These network connections may include government agencies responsible for policies and funded programs; other health service providers in the private sector, government sector, non-government sector, or the community controlled sector; the local, regional and state-wide Aboriginal and/or Torres Strait islander community; relevant members of the [insert State], Australian or Local governments, and business.

The Board will make every effort to implement a conscious program of networking and linkage to promote [INSERT ACCHO'S NAME] and to further its interests.

- Every decision by the Board to approve and undertake official network activity is based upon the answer to a simple question:

Will networking with this organisation help [INSERT ACCHO'S NAME] to achieve the goals the Board has approved in the Strategic Plan and the KPIs in the Action Plan?

- Network activity includes informal relationship management, and extends as well to participation by Directors in formal structures, agreements, periodic joint events and less formal coordination that may take the form of:
 - (i) Partnerships

- (ii) Alliances
- (iii) Memoranda of Agreement

1.6 Communicate with key stakeholder groups

The focus of communications with external stakeholders by the Board is on matters related to [INSERT ACCHO'S NAME]'s strategic directions and decisions, as well as information about its operations, especially its achievements.

- The Board of Directors has primary accountability for keeping key stakeholders informed of strategic directions, operational plans and organizational performance.
- The key stakeholders for [INSERT ACCHO'S NAME] to communicate with are:
 - (i) Member Organisations
 - (ii) Funding organisations and their Ministers, including:
 - [insert name of State Health Department]; and
 - the Commonwealth Departments of Health, Prime Minister and Cabinet, and Social Services
 - (iii) Medicare Locals and their replacements -Primary Health Networks
 - (iv) Legal and regulatory bodies, particularly:
 - ASIC and
- the Australian Taxation Office
- (v) NACCHO
- The communication options the Board can authorise include:
 - (i) General meetings of members
 - (ii) [Annual] Reports and Financial Statements
 - (iii) [INSERT ACCHO'S NAME] web site, incorporating news stories and postings of documents
 - (iv) Media releases

Communications with [INSERT ACCHO'S NAME] members is the shared responsibility of the Board, through the Chairperson, and of the CEO.

Communications to the print and electronic media on matters associated with [INSERT ACCHO'S NAME] is the responsibility of the Chairperson.

Matters discussed at meetings of the Board and its appointed Committees are confidential and no Director may communicate their proceedings or decisions to any person, organisation or media outlet.

The Chairperson of [INSERT ACCHO'S NAME] is authorised to provide public comment on:

- ❖ any speculation concerning Board meetings or the outcomes of Board meetings;
- ❖ annual and half-yearly financial statements, at the time of their adoption by the Board;
- ❖ resolutions to be put to Special and/or Annual General Meetings;
- ❖ changes in Directors, any matter relating to the composition of the Board (e.g. skills-based Directors), or Board processes;
- ❖ changes in the *Constitution*;
- ❖ performance issues;
- ❖ [INSERT ACCHO'S NAME]'s future outlook/strategic directions;
- ❖ proposed or actual legal action;
- ❖ other matters specifically related to members of [INSERT ACCHO'S NAME].

Communication to staff is one of the key responsibilities of the CEO, delegated by the Board. The CEO will not ordinarily make any public comments except where the Board has given its authorisation.

If a Director or an employee is approached by the media for public comment, they must:

- (a) refer the person seeking comment to the Chairperson or to the CEO;
- (b) not disclose any information, documents or other forms of data to the person seeking comment without the prior consent of the Chairperson;
- (c) inform the Chairperson or CEO of the name of the person seeking comment, the reason for the contact (both explicit and inferred), as well as a summary of any other relevant information as soon as possible.

2. Board Structure

The structure of the [INSERT ACCHO'S NAME] Board of Directors is determined in the *Constitution* of [INSERT ACCHO'S NAME].

The Board does not see the necessity to specify a specific gender balance amongst Directors.

The *Constitution* provides for the filling of casual vacancies on the Board.

2.1. Requirements of [INSERT ACCHO'S NAME] Directors

Directors share ultimate responsibility for [INSERT ACCHO'S NAME]'s success. Therefore, Directors have an individual responsibility to ensure that the Board is providing:

- ❖ leadership to [INSERT ACCHO'S NAME], particularly in areas of ethics and culture
- ❖ a clear and appropriate strategic direction
- ❖ accountability to key stakeholders, including funding bodies and regulatory agencies
- ❖ oversight of policies and procedures
- ❖ oversight of all control and accountability systems including all financial operations and solvency as well as risk management and compliance
- ❖ timely and effective decisions on matters reserved to it

Members seeking to be elected to the Board should be informed before each election of:

- the skills and knowledge required of an effective Board;
- the personal qualities that Directors should possess; as well as
- the roles and duties of Directors and office bearers (see Section 4 below).

2.1 General characteristics of effective Boards

- ◇ At least one director with broad experience in corporate governance and Board development processes. If this experience is unavailable on the [INSERT ACCHO'S NAME] Board, then a suitable 'skills-based Director' could be appointed and at the same time the Board should focus its own training and development in this area.
- ◇ At least one director with extensive experience in the industry environment, with policy and strategy content – that is, in Aboriginal and Torres Strait Islander health.
- ◇ In-depth understanding of financial, risk-management and compliance matters.
- ◇ Thorough understanding of the organisation and its culture.
- ◇ Desirable to have had CEO-level or Chairperson-level experience.

- ◇ Sound business skills, to provide a focus on resource allocation. If this experience is unavailable on the [INSERT ACCHO'S NAME] Board, then a suitable 'skills-based Director' should be appointed

2.2 Personal qualities of Directors

The Board felt that it should spell out best practice in personal qualities, and reinforce them through a *Board Code of Conduct* that contains sanctions for breaches.

The Board of [INSERT ACCHO'S NAME] accepts that a group of successful Directors will share the following personal qualities:

Strategic thinkers

Directors understand stakeholder expectations (e.g. from funding bodies, partner organisations, [INSERT ACCHO'S NAME] staff)

Directors understand client environments (what clients want from [INSERT ACCHO'S NAME])

Directors remain objective (personality and family considerations do not decide behaviours or decisions)

Commercial way of thinking (acumen)

Directors understand the business environment (what is happening to primary health care at State and Commonwealth levels; what is happening in Indigenous Affairs; who are potential competitors and allies)

Directors focus on cost effectiveness

Directors advance [INSERT ACCHO'S NAME]'s interests and business opportunities

Communication and interpersonal skills

Directors are approachable, especially for the CEO

Directors ask questions, but also listen

Analytical skills

Directors focus on results; they do not micro-manage

Directors look ahead and plan, but they also pay attention to details

Directors seek training and development to improve their capabilities

Team players

Directors share the [INSERT ACCHO'S NAME] vision; they work with other Directors, the CEO and where appropriate with senior managers

Directors devote sufficient time to prepare for Board meetings and Board duties

Directors maintain high ethical standards and avoid unproductive conflicts

The [INSERT ACCHO'S NAME] Board will aim to emphasise these personal qualities through its training and development activities for Directors.

EXAMPLE ONLY

3. The Roles of Individual Directors

3.1 Duties of Directors

Directors have a legal duty to:

- (i) To act in good faith, including to avoid conflicts of interest
- (ii) To act with care and diligence in the performance of their duties (this means bringing a reasonable level of expertise and dedication to the position as Director)
- (iii) To act in the best interests of the corporation ('fiduciary duty')
- (iv) Not to gain advantage by improper use of their position
- (v) Not to misuse information
- (vi) Not to trade whilst insolvent

Directors need to be aware of any State legislation that might impose personal liability for breaches

3.2 Code of Conduct

The Board of Directors of [INSERT ACCHO'S NAME] have endorsed the following *Code of Conduct*:

(i) Behaviours

Act Honestly & In Good Faith

[INSERT ACCHO'S NAME] Directors must at all times by law act honestly, with reasonable skill, in good faith and in [INSERT ACCHO'S NAME]'s best interests.

The *Corporations Act* has penalties if Directors are found guilty of dishonest behaviour. The penalty is much higher if it can be shown that a Director deliberately intended to defraud the organization, its members, its creditors or anyone else.

Act with Care and Diligence

Directors are expected to do their job with reasonable care.

Allowing [INSERT ACCHO'S NAME] to perform activities outside its purposes, ignore its *Constitution*, or sell property at a lower than market price could be seen in legal terms as not exercising due care.

Act Loyally and Avoid Conflicts Of Interest

Directors must disclose potential conflicts of interest as soon as they arise regarding financial, political or personal benefit from:

- Other business or professional activities
- Employment by or accountability to other people or organizations
- Membership of other organizations
- Ownership of property or other assets.

If [INSERT ACCHO'S NAME] suffers from the Board entering into an agreement benefiting a Director personally or which results from a position of conflict, damages may be recovered from that Director.

Avoid Abuse of Opportunity and Information

Directors should not use their position and/or information gained from their position for personal benefit or advantage at the expense of [INSERT ACCHO'S NAME]. Member organisations are able to sue to recover any profits made by that person or to recoup any losses suffered by [INSERT ACCHO'S NAME].

Using 'inside' information about [INSERT ACCHO'S NAME] to obtain a job, or spreading information about a client where that information has been gained as a Director, are examples of abusing privileged access to information.

Act in the Best Interests of the Organization

Where there are conflicts of interest, common law requires Directors to put the interests of [INSERT ACCHO'S NAME] first. The interests of [INSERT ACCHO'S NAME] are regarded as being the interests of the member organisations of the company as a whole and not the interests of any particular member or group of members.

Directors are also expected to use their position and power primarily for the benefit of [INSERT ACCHO'S NAME].

Exercise Powers for their Proper Use

Directors can delegate their duties to paid staff but this does not remove their legal responsibility to ensure that competent people carry out delegated duties properly.

The critical financial management duties that Directors have legal responsibility for are:

- Approving an annual budget
- Examining the financial reports
- Checking that the financial reports are accurate, and
- Ensuring that [INSERT ACCHO'S NAME] is capable of paying its debts.

Directors have a clear legal responsibility to maintain [INSERT ACCHO'S NAME] as a solvent organization, which means that Directors must at all times be able to testify to [INSERT ACCHO'S NAME]'s current financial viability.

(ii) Board Meeting Behaviours

- Behave honestly and with integrity
- Act with care and diligence
- Treat everyone with respect and courtesy, and without harassment
- Comply with all applicable laws
- Maintain appropriate confidentiality
- Disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent)
- Use [INSERT ACCHO'S NAME] resources in a proper manner
- Behave in a way that upholds the good reputation of [INSERT ACCHO'S NAME] at all times when in public
- Not provide false or misleading information to a request for information
- Not make improper use of inside information or one's duties, status, power or authority in order to gain, or seek to gain, a benefit or advantage for oneself or for any other person.
- Minimise chatter and irrelevant remarks
- Ensure that others are given a reasonable opportunity to put forward their views

(iii) Performance Expectations

Board Directors are expected to be both collectively and individually accountable for all the decisions and actions that are taken as well as not taken by the Board of Directors.

The members of [INSERT ACCHO'S NAME] and the funding bodies expect that Directors will specifically:

- Assist in the Board working co-operatively and effectively as a group
- Act in a business-like manner
- Act with the level of skill, care and diligence expected of a Director of a medium sized company
- Undertake diligent analysis of all proposals presented to the Board
- Declare any conflicts of interest that arise
- Work for the benefit of [INSERT ACCHO'S NAME] rather than to benefit any particular group
- Keep all confidential information private
- Respect any special information obtained about [INSERT ACCHO'S NAME]'s members, staff or clients
- Welcome any new Director elected or appointed to the Board.

(iv) Collective Obligations

Directors are obliged as a collective group to govern [INSERT ACCHO'S NAME] according to:

- The laws relating to [INSERT ACCHO'S NAME] as a legal entity
- The laws relating to the purpose for which [INSERT ACCHO'S NAME] was established
- The philosophy, objects, rules and by-laws set down in the *Constitution*
- The terms and conditions of any Service Agreements entered into by the Board
- The policies, procedures and practices formally endorsed by the Board
- The provisions contained in a range of documents, including:
 - Government Agencies' Terms and Conditions of Funding
 - Applicable industrial relations laws, Awards and agreements
 - Occupational Health and Safety legislation

(v) Individual Obligations

Each Director has a range of personal obligations as an individual Director, including:

- A Director working in another organization is obliged to put the interests of [INSERT ACCHO'S NAME] above those of his/her employer when sitting on the Board or when acting as a [INSERT ACCHO'S NAME] Director.
- A Director who is involved with an outside group is obliged to put [INSERT ACCHO'S NAME]'s interests above the other group's interests when sitting on the Board or when acting as a [INSERT ACCHO'S NAME] Director.

- A Director who has either a direct or indirect pecuniary interest in a particular issue or contract is obliged to exclude themselves from the Board's decision-making on that matter (see definition below of 'pecuniary interest').
- A Board who has a partner or immediate family member employed by [INSERT ACCHO'S NAME] has an indirect pecuniary interest which must be disclosed to the Board. If the Director does not voluntarily exclude him/herself from discussing and/or voting on any motions relating to the employment by [INSERT ACCHO'S NAME] of their partner or family member, the Board should move that they be excluded from doing so.
- Each Director is personally and individually responsible for assuring themselves that the Board's office-bearers are carrying out their designated functions and that the Board is following the rules and regulations as laid down in [INSERT ACCHO'S NAME]'s *Constitution*.

(vi) Conflicts of Interest

Conflicts of interest are not harmful in themselves provided that Directors declare such conflicts to the Board. To protect both themselves and the Board, all Directors should as far as possible formally declare in advance all of their interests that might lead to conflict for them in their role as a Director.

Directors must disclose to the Board actual or potential conflicts that may or might reasonably be thought to exist between the interests of the Director and the interests of [INSERT ACCHO'S NAME]. On election/appointment, Directors will have an opportunity to declare any such interests and they will be entered into [INSERT ACCHO'S NAME]'s *'Register of Ongoing Conflicts of Interest'*. Directors should update this disclosure by notifying the Company Secretary in writing as soon as they become aware of any conflicts.

Directors are also expected to indicate to the Chairperson any actual or potential conflict of interest situation as soon as it arises. To ensure that Directors have an opportunity to disclose new conflicts of interest, one of the first agenda items for each Board meeting will be the disclosure of any conflicts of interest. Any amendments to disclosure are to be tabled at this time and entered into the *'Register of Ongoing Conflicts of Interest'*.

The Board can request the Director to take reasonable steps to remove any conflict of interest within a specified time limit. Where a Director cannot, or is unwilling to, remove a conflict of interest; and/or wherever a conflict of interest is disclosed, the Director must leave the room where the Board is meeting when it discusses and votes on matters to which the conflict of interest relates and this exit and re-entry will be recorded in the minutes of the Board meeting.

A Director may come to be faced at a Board meeting with a conflict of interest over some matter that they had not foreseen and thus had not declared in advance. They

must immediately inform the Chairperson of the conflict of interest and remove themselves from the meeting while the Board discusses and votes on the matter.

Directors do not have to absent themselves when either:

- (a) a conflict of interest relates to an interest common to all members; or
- (b) the Board passes a resolution that identifies the Director, the nature and extent of the Director's interest and clearly states that the other Directors are satisfied that the interest should not disqualify the Director concerned from discussion and/or voting on the matter.

Pecuniary Interest

Direct Pecuniary Interest is:

When a Director stands to gain financially or otherwise benefits if the Board decides on a particular course of action and where the financial gain would be first-hand in the form of direct payments to the Director for supplying [INSERT ACCHO'S NAME] with goods or services as contracted by the Board.

Indirect Pecuniary Interest is:

(a) When a Director stands to gain financially or otherwise benefits if the Board decides on a particular course of action but where the gain would be second-hand or indirect in that the Director would gain through providing goods or services to a third party contracted by the Board to supply [INSERT ACCHO'S NAME] with goods or services,

Or

(b) When a Director may not gain financially or otherwise benefits but where the Director's partner or family member stands to gain if the Board chooses a particular course of action (see 'related party transactions'.)

Related Party Transactions

Related party transactions include any financial transaction between a Director or Officer and [INSERT ACCHO'S NAME] and are to be reported in writing to each Board meeting.

A related party means:

- i. a spouse or de factor spouse of the Director of Officer; or
- ii. a parent, son or daughter of the Director of officer or their spouse or de facto spouse; or
- iii. an entity over which the Director of Officer or a related party defined in (i) or (ii) has a controlling interest.

In general, the *Corporations Act* requires related party transactions to be approved by the Member organisations; the Board cannot approve these transactions. An exemption to this requirement occurs where the financial benefit is given on 'arm's length' terms.

There is a process that the Board can follow to show that a financial benefit, such as awarding a contract to a company in which a Director is a partner, is given on 'arm's length' terms. This process involves:

- ❖ Documenting specifications for the services/products
- ❖ Inviting competitive tenders by a deadline
- ❖ Submitting sealed tenders to the Company Secretary
- ❖ Establishing a Tender Evaluation Committee of the Board to open and review all tenders received by the deadline. External, independent and expert/technical persons can be appointed to this Committee by the Board to ensure decisions are informed by knowledge and experience
- ❖ Applying five selection criteria to generate a written recommendation to the Board for its decision: value for money; enhancing the capabilities of [INSERT ACCHO'S NAME]; open and effective competition; ethical behaviour and fair dealing; advancement of Aboriginal and Torres Strait Islander self-determination.

But the Board of [INSERT ACCHO'S NAME] will resolve that, where a related party transaction on 'arm's length' terms is being considered for approval by the Board, the Director or Officer to whom the decision applies will exclude herself/himself from the approval process.

The Company Secretary will maintain a separate '*Register of Related Party Transactions*'.

(vii) Hospitality and Gifts

While [INSERT ACCHO'S NAME] recognises the need from time to time to give or accept customary business courtesies in accordance with ethical business practices, Directors and Officers will not solicit such courtesies and will not accept, gifts, services, benefits or hospitality that might influence, or appear to influence, the Directors' and Officers' conduct in representing [INSERT ACCHO'S NAME].

(viii) Sanctions

If a Director breaches this *Code of Conduct*, the matter will be investigated by a Disputes Committee appointed by the Board. The Director may be suspended by the Board pending a recommendation from the Disputes Committee, and a final decision on the action to take - including dismissal from the Board - will be taken by the full Board at a meeting. The *Constitution* spells out the subsequent processes.

4. The Roles of the Chairperson

The Chairperson is considered the 'lead' Director and uses her/his experience, skills and attributes to facilitate the governance processes for [INSERT ACCHO'S NAME].

The Chairperson's primary function is to ensure that the Board accomplishes its role as expressed in the *Constitution* and this *Charter of Corporate Governance*, and to be the major point of contact between the Board and the CEO/senior management team.

The Chairperson is expected to show personal integrity at all times.

The specific responsibilities of the Chairperson have been clustered under six headings.

Board Leadership

- Ensure the Board operates as an inclusive, well-functioning team;
- Provide guidance to new Board members on what is expected of them as Directors, including by ensuring they are offered an induction program;
- Set the tone for Board meetings and foster an ethical Board culture;
- Monitor behaviour of Directors against the Directors' *Code of Conduct* and initiate appropriate action in cases of non-compliance;
- Ensure the *Strategic Plan* has been endorsed and is reviewed annually;
- Initiate periodic evaluations of [INSERT ACCHO'S NAME] Board performance in accordance with the procedures laid out in this *Charter of Corporate Governance*;
- Ensure that the Board discusses its development needs and includes appropriate 'measures' in the *Action Plan* and an appropriate cost allocation in the annual Budget.

Ensuring Effective Board Meetings

- Establish the agenda for Board meetings in consultation with the CEO and the Company Secretary;
- Establish an annual Board calendar together with the CEO and the Company Secretary;
- Together with the CEO and the Company Secretary, ensure that appropriate Board papers are prepared on all matters requiring a decision at Board meetings, and ensure that such papers are circulated in advance;
- Convene Board meetings as required under the *Constitution*;
- Chair each Board meeting. The *Constitution* spells out alternate arrangements where this is not possible;
- Ensure that time is allocated effectively, that all Directors present are given the opportunity to contribute effectively, and that the Board comes to clear decision with resolutions noted.

Management Relations

- Communicate with the CEO to ensure the Board is kept up to date on all relevant matters;
- Be the principal point of contact between the Board and managers, in particular the CEO;
- Initiate and oversee the CEO performance evaluation process;
- Provide and/or arrange mentoring for the CEO.

Stakeholder/Member Relations

- Chair Special and Annual General Meetings;
- Be the spokesperson for the Board at Special and Annual General Meetings;
- Communicate with stakeholders on matters which relate to the governance of [INSERT ACCHO'S NAME].

Delegations

- The Board delegates to the Chairperson responsibility for making public comments on behalf of [INSERT ACCHO'S NAME].
- Any other accountabilities as specified in the [INSERT ACCHO'S NAME] *Constitution*.

5. The Roles of the Chief Finance Officer

The roles of the [INSERT ACCHO'S NAME] Chief Finance Officer are:

- Oversees [INSERT ACCHO'S NAME]'s financial management systems and procedures to ensure all financial transactions are recorded.
- Attends and actively participates in meetings of the *Finance Risk and Audit Committee*.
- Oversees the [INSERT ACCHO'S NAME] *Risk Management Plan*.
- Provides a financial report to each meeting of the Board, prepared with the CEO
- Alerts the Board to significant under and over data for both income and expenditure contained in each financial report; ensures that decisions are taken by the Board where necessary.
- Acts as one of the signatories for [INSERT ACCHO'S NAME] bank accounts.
- Prepares annual financial statements and ensures that the Auditor has access to required documentation and systems.
- Provides information to the Auditor as required.
- Presents an annual financial report to the Annual General Meeting.

6. The Roles of the Company Secretary

The Company Secretary is an Officer of [INSERT ACCHO'S NAME] subject to the provisions of the *Corporations Act* relating to company secretaries and to company officers. As an office holder, the Company Secretary is charged with facilitating [INSERT ACCHO'S NAME]'s corporate governance processes and is responsible for ensuring that the Board processes and procedures run efficiently and effectively.

The major areas of responsibility of the Company Secretary fall under the following headings:

- *Corporations Act* Responsibilities
- Meeting Management
- Compliance
- Governance and Administration

***Corporations Act* Responsibilities**

(i) General

Under the *Corporations Act* the Company Secretary is obliged to ensure that:

- ❖ The registered office is established and maintained;
- ❖ The registered office is open to the public for at least 3 hours chosen by [INSERT ACCHO'S NAME] between 9am and 5pm for each business day;
- ❖ Financial reports that are to be lodged with ASIC are, in fact, lodged;
- ❖ Any changes to the corporation's operations are properly lodged with ASIC by the required time;
- ❖ The address of the principal place of business, and any change to this address, is advised to ASIC;
- ❖ The details of, or changes to details of, all office holders are notified to ASIC;
- ❖ All compliance reporting documentation is properly lodged with ASIC by the required time

(ii) Financial

With respect to [INSERT ACCHO'S NAME]'s annual financial reporting, the Company Secretary is responsible for:

- ❖ Sending the financial report, Directors' report and Auditor's report to members;
- ❖ Lodging the financial report, Directors' report and Auditor's report with ASIC.

(iii) General Meetings

With respect to [INSERT ACCHO'S NAME]'s general meetings, the Company Secretary will:

- ❖ Send out notices of general meetings including proxy forms;
- ❖ Give members notice of member's resolutions or statements;
- ❖ Maintain [INSERT ACCHO'S NAME]'s minute books
- ❖ Prepare proxy forms.

(iv) Registers

The Company Secretary is also responsible for ensuring that the necessary registers required to be kept by the *Corporations Act* are established and properly maintained.

(v) Reports

The Company Secretary will also ensure that [INSERT ACCHO'S NAME] lodges its half yearly report with ASIC.

Governance Meeting Management

The Company Secretary has responsibilities in relation to all governance meetings of [INSERT ACCHO'S NAME], that is, general meetings including the Annual General Meeting, Board meetings and Committee meetings of the Board.

For each of these meetings, the Company Secretary is responsible for:

- ❖ Preparing the notice of meeting and giving that notice as specified in the [INSERT ACCHO'S NAME] *Constitution* or by laws;
- ❖ Assisting the Chairperson and CEO to prepare an agenda;
- ❖ Circulating the agenda and papers prior to the meeting;
- ❖ Preparing for and attending the meeting;
- ❖ Recording, finalising, distributing and maintaining the minutes of all meetings.

In relation to Board and Committee meetings of [INSERT ACCHO'S NAME], the Company Secretary is responsible for maintaining a complete set of Board and Committee papers at [INSERT ACCHO'S NAME]'s main office.

Compliance

With respect to compliance, the Company Secretary is responsible for:

- ❖ Reviewing current compliance programs and reporting back to the Board and CEO on any recommendation for change;
- ❖ Working on the implementation of a compliance program adopted by the Board;
- ❖ Ensuring all requirements of ASIC are fully met;
- ❖ Providing counsel on corporate governance principles and Director liability;
- ❖ Keeping abreast of the *Corporations Act* and provisions relating to [INSERT ACCHO'S NAME];
- ❖ Providing advice to Directors and Officers in relation to the requirements of legislation and regulations relevant to [INSERT ACCHO'S NAME] as well as [INSERT ACCHO'S NAME]'s *Constitution*.

Governance Administration

With respect to governance administration, the Company Secretary is responsible for:

- ❖ Maintaining the *Register of Ongoing Conflicts of Interest* and the *Register of Related Party Transactions*;
- ❖ Maintaining a *Register of Company Policies* as approved by the [INSERT ACCHO'S NAME] Board;
- ❖ Maintaining, updating, and ensuring that all Directors have an up-to-date copy of the *Charter of Corporate Governance* and associated governance documentation;
- ❖ Maintaining the complete list of the *Delegations of Authority*;
- ❖ Reporting at each Board meeting the documents executed under a power of attorney;
- ❖ Any other services the Chair or Board may require.

For mainstream commercial companies listed on the Australian Stock Exchange, the company secretary communicates directly with the CEO on day-to-day administrative and management matters, as well as the Chairperson. In addition, the company secretary must have previous experience working as a company secretary or assistant company secretary for a significant sized organisation or have gained equivalent experience as a professional advisor in a law firm. For mainstream commercial companies, the company secretary should hold a Bachelor of Laws from an Australian university and desirably have tertiary qualifications in accounting, finance, management or other business discipline.

[INSERT ACCHO'S NAME], as an Aboriginal and Islander Community Controlled Health Service rather than as a listed commercial company, can choose to contract an external person with appropriate experience and qualifications to be its Company Secretary. This could be done in a cost-sharing arrangement with similar organisations such as Member Organisations.

7. The Roles of the CEO

The Chief Executive Officer (CEO) is appointed by the Board and the Board suspends and terminates the CEO by majority decision. The time, place and agenda of all Board meetings are to be advised to the CEO and he/she is entitled to attend and speak at meetings, subject to a vote by the majority of the Directors to hold part or all of their meeting *in camera* or without the CEO being present.

The CEO's primary objective is to ensure the ongoing success of [INSERT ACCHO'S NAME] by effectively implementing all aspects of the business operations and development of [INSERT ACCHO'S NAME] with a senior management team and qualified staff.

The CEO is of critical importance to [INSERT ACCHO'S NAME] in guiding [INSERT ACCHO'S NAME] to develop new and imaginative ways of providing services and winning resources to expand business. The CEO must have the industry or related industry knowledge, and the credibility, to fulfil the requirements of the role set out below.

The CEO's roles are to:

- Assist the Board to develop a strategic vision, mission, values and directions (goals). This includes assessing business opportunities of potential benefit to [INSERT ACCHO'S NAME]; advising on strategies for the sustainable competitive advantage of [INSERT ACCHO'S NAME]; and advising the Board on the most effective organisational structure for [INSERT ACCHO'S NAME].
- Assist the Board to develop a *Strategic Plan*, subject to annual reviews, that responds to current and emerging realities in the [INSERT ACCHO'S NAME] operating environment, engages stakeholders, delivers services that Close the Gap for Aboriginal and Torres Strait Islander people, and strengthens the financial sustainability of [INSERT ACCHO'S NAME].
- Manage implementation of the *Strategic Plan* through the annual *Action Plan* and related annual Budget preparation and periodic 'traffic light' performance/progress reviews.
- Implement the top level policy framework for the efficient and effective management of business operations, approved by the [INSERT ACCHO'S NAME] Board of Directors. This includes implementing the *Risk Management Plan* and upholding corporate policies and procedures as well as recommending changes to the *Finance Policy & Procedure Manual*, the *Human Resources Policy & Procedure Manual*, and the *Corporate Policy & Procedure Manual*.
- Service the Board's operations. The CEO will usually participate in discussions at Board meetings; present a progress report including any

concerns; and provide information to assist the Board with its decision making.

- Manage income and expenditure aligned with approved Budget and with approved delegations from the Board.
- Manage day-to-day operations of [INSERT ACCHO'S NAME]. This includes convening meetings of a Senior Management Team as well as ensuring statutory, legal and regulatory compliance, with the Company Secretary. All communication between Board Directors and staff in relation to their work or the day-to-day operations of [INSERT ACCHO'S NAME] will be via the CEO.
- Hire, supervise, lead, appraise, promote and terminate senior managers and other staff, subject to delegations for line managers and supervisors. This includes ensuring that an effective staff performance appraisal system is in place and is used.
- Set and maintain corporate culture and ensures its alignment with [INSERT ACCHO'S NAME]'s strategic directions. This includes establishing and implementing acceptable and unacceptable staff behaviours and performance expectations and driving processes for their implementation and compliance.
- Ensure a safe workplace.
- Any other accountabilities specified in the [INSERT ACCHO'S NAME] *Constitution*, or as detailed in the position description from time to time.

The Board of [INSERT ACCHO'S NAME] recognises that one of the major risks to [INSERT ACCHO'S NAME] is the loss of key personnel especially the CEO. Therefore, the Board will act immediately that the CEO is suspended, terminated, resigns or is incapacitated to appoint an Acting CEO either from within [INSERT ACCHO'S NAME] or from outside.

Part 2: Improving Board Process

1. Improving the Conduct of Board Meetings

1.1 Benchmarks of Effective Board Meetings

At well-prepared and well-conducted Board meetings, Directors can:

1. Obtain and exchange information with members of the senior management team for relevant business papers on the Agenda
2. Obtain and exchange information with each other
3. Brainstorm – particularly on new and complex issues
4. Establish goals and directives
5. Share responsibility for [INSERT ACCHO'S NAME]'s performance
6. Delegate authority
7. Make decisions

The [INSERT ACCHO'S NAME] Board commits to achieving these benchmarks of effective Board meetings for every Board meeting.

Specific Considerations for Improving [INSERT ACCHO'S NAME] Board Meetings

The [INSERT ACCHO'S NAME] Board and Secretariat will continually monitor the following 15 specific issues, grouped under 3 main headings in order to ensure that [INSERT ACCHO'S NAME] Board meetings remain effective:

1.Planning:

- Frequency
- Location
- Attendees: are the necessary technical people present as well as Directors
- Agenda and Papers: pre-circulated

1. Conduct:

- Tone: business-like
- Decision-focused: does it make sense; have risks been considered
- Consensus and voting
- Technologies – e.g. data projector, teleconferencing
- Quorum: is there a need to fill casual vacancies
- Calling Board meetings and Notice of Meeting
- Emergency decisions - e.g., the use of “flying minutes”

3. Active participation:

- Punctual arrival and attendance, at start of Board meetings and after breaks
- Focus contributions on the topic
- Value time – minimize diversions and lengthy speeches
- Accept decisions, whether present at the time of voting or not

2. Improving the Agenda for Board Meetings

The Board will use, and monitor the value of, the following 5 suggested improvements:

- Adopt a template of agenda items that balances the order so that strategic issues are not swamped by administrative issues
- note the '*New Conflict of Interest*' declaration to be at the top of the agenda
 - Agree who has the authority to set the Agenda.
- The Board believes the Agenda should be set by the Chairperson in consultation with CEO and the Company Secretary, with this first draft circulated to Directors for email comments.
 - Set time-frames for agenda items
 - Ways to streamline the Agenda include:
 - identify issues/papers as "for decision", "for information" and "for noting" for information"
 - vote on resolutions as a block wherever possible;
 - discourage items of "other business" at the end of the meeting
 - Evaluate Board meetings periodically. - [INSERT ACCHO'S NAME] Directors could agree to institute a self-assessment form for each Board meeting to improve effectiveness. In Part 4, Section 3 of this *Corporate Governance Charter* there is a section on formal Board evaluations.
 - Align agenda papers to a consistent framework, which could be for example the strategic directions, the KPIs set by the Department of health, or some other construct proposed by the CEO
- this is a form of self-discipline to monitor how much of the Board's agenda is focused on what has been endorsed for the year and how much is about new business opportunities.

3. Improving the Value of Board Papers

3.1 Core Board papers should include:

- Agenda
- Minutes of previous meeting/s
- Financial report/s – annotated for under and over variations against Budget, with explanatory notes to Directors
- CEO's report
- Documentation to support specific agenda items for discussion
- Major correspondence

3.2 Format for documentation to support specific agenda items:

- Use a standard cover page that includes the resolution to be considered
- Use *Executive Summary* and *Table of Contents* for long documents
- Use bold or highlighted colours to identify key points
- Use dot points wherever possible

4. Improving Board Minutes

4.1 The Board expects that the “Minutes” of its meetings will be a:

- ❖ Reminder of what happened at the meeting
- ❖ Guide people unable to attend the meeting
- ❖ Source of information for Committees and staff about their scope of work
- ❖ Permanent record for reference by outside parties

4.2 The Board wants the Minutes to record:

- ❖ Directors present, absent, and apologies
- ❖ Others present
- ❖ Mover and seconder of resolutions
- ❖ Decisions made/resolutions passed/resolutions lost
- ❖ Plus major points made in the discussion
- ❖ Plus action steps and individual accountability
- ❖ Each resolution to be numbered

4.3 Compliance with *Corporations Act* requirements:

- ❖ Minutes will be drafted under the guidance of the Company Secretary. The Board may ask the CEO to take minutes, or appoint one of the Directors to take the minutes, or even make use of the services of a contracted ‘scribe’
- ❖ The CEO, the Chairperson and the Deputy Chairperson will review the first draft of the minutes to ensure they satisfy the requirements of 4.2 above.
- ❖ Draft minutes will be circulated to Directors in advance of the next Board meeting, usually by email, where Directors will vote to adopt/amend them
- ❖ Minutes will be signed by the Chairperson no later than at this meeting and the confirmed minutes will be circulated to Directors
- ❖ Minutes will be entered in Directors’ minutes book within one month of adoption, by the Company Secretary

5. [INSERT ACCHO'S NAME] Calendar of Major Board Events

The Board endorses the idea of a “Board Calendar” that will identify the dates for all key Board activities, including

- ❖ Board meeting dates
- ❖ Date of [INSERT ACCHO'S NAME] AGM
- ❖ *Action Plan* preparation (April/May)
- ❖ 2 x *Action Plan* review dates (October, March/April)
- ❖ Budget dates for [INSERT ACCHO'S NAME] (May/June)
- ❖ CEO performance reviews
- ❖ (Annual) Board evaluation
- ❖ Budget dates for Commonwealth and Queensland Governments (May)
- ❖ Board training and development days related to Corporate Governance Training
- ❖ Major events, e.g. NAIDOC Week, Members Conferences
- ❖ Key corporate compliance dates – e.g. annual workshop reviews of *Strategic Plan, Risk Management Plan, Charter of Corporate Governance*, and the *Policy & Procedure Manuals*

The Company Secretary is responsible for developing and circulating the [INSERT ACCHO'S NAME] *Board Calendar* to Directors in January each year.

6. Committees of the [INSERT ACCHO'S NAME] Board

6.1 Guidelines for Committees

The [INSERT ACCHO'S NAME] Board has approved the following Guidelines for all Committees:

- ❖ Every committee should have terms of reference approved by the Board
- ❖ Minutes of every committee should be included in Board papers
- ❖ Membership composition of committees will be set by the Board and must include people with suitable expertise
- ❖ Delegated powers of committees must be approved by the Board and included in their terms of reference
- ❖ Time-frames for completion of terms of reference should be set by the Board and all committees cease to function at each Annual General Meeting. Committees must be re-established by decision of the newly-elected Board.
- ❖ Resources to be used by the committee are to be set by the Board
- ❖ The Board will monitor the effectiveness of each committee.

Endorsed Committees

As at 2014, the [INSERT ACCHO'S NAME] Board has agreed to establish a Finance, Risk and Audit Committee.

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Part 3: Key Board Functions

1. The Board Formulates Strategy

There are 10 Steps to the [INSERT ACCHO'S NAME] strategy formulation and review process.

1.1 [INSERT ACCHO'S NAME] Directors approve a Strategic Plan(at least for 3 years) and a 1-year Action Plan

- ❖ Step 1: Board directs CEO that a Strategic Plan be developed
- ❖ Step 2: CEO and Senior Management Team develop a draft
 - Option for an external consultant participating
 - The Strategic Plan has to align with [INSERT ACCHO'S NAME]'s *Constitution "Objects"*
- ❖ Step 3: Board discusses draft; makes its own amendments
- ❖ Step 4: Board approves Strategic Plan
- ❖ Step 5: CEO coordinates and finalises a draft annual *Action Plan*
 - -The "Aims" in the *Action Plan* are linked to the Strategic Plan's objectives
 - -the *Action Plan* spells out performance measures achievable in 1 year
- ❖ Step 6: The Board considers, amends and approves the *Action Plan* and a closely related annual Budget by mid-April/early-May every year
- ❖ Step 7: Project and administration staff develop their individual work plans to implement the specific measures in the *Action Plan* for their job area

- ❖ Step 8: The Performance Appraisal System is used by managers and supervisors to monitor each staff member's achievements against their individual work plans
 - There are 2 special performance reviews every six months
- ❖ Step 9: The CEO reports on overall *Action Plan* achievements to the Board every quarter, with a formal Mid-year and End-year review.
- ❖ Step 10: The Strategic Plan is reviewed by the Board annually and is updated for the next cycle (e.g. 3 years)

EXAMPLE ONLY

1.2 Quality Assurance Issues in Strategy Formulation

The Board will take into consideration the following five quality assurance issues when it formulates strategy for [INSERT ACCHO'S NAME]. This includes the Mid-year and End-year *Action Plan* reviews, the annual workshop to review the Strategic Plan, and the annual development of an *Action Plan*.

❖ Comprehension

- Is the Board clear in its mind about the strategic directions?
- Can the Board see the connection between the mission/vision/values for [INSERT ACCHO'S NAME] and the strategic directions?

❖ Appropriateness

- Are the strategies and performance measures aligned with the "Objects" of the [INSERT ACCHO'S NAME] *Constitution*?
- Do the strategic directions fit in with what [INSERT ACCHO'S NAME] is already doing or wants to be doing?

❖ Sustainability

- Can [INSERT ACCHO'S NAME] acquire the financial and human resources required, whether from Governments or other sources?
- Are the strategic directions based on good information?
- Have all the key issues been analysed; do we know what it takes to be successful?

❖ Feasibility

- Can [INSERT ACCHO'S NAME] realistically get the jobs done?
- Has a risk assessment plan been finalised?

❖ Accountability

- Is the Board satisfied with the reporting/monitoring arrangements?
- Does the Board have the opportunity to fix things up if they start to fail?

1.3 Expectations of Directors

The [INSERT ACCHO'S NAME] Board acknowledges that its Directors must demonstrate their own capabilities in line with the capabilities that are expected of any corporation's directors.

There are at least five such standard expectations.

[INSERT ACCHO'S NAME] Directors are expected to:

❖ **Understand their industry**

This is the Health industry, with a particular focus on Aboriginal and Torres Strait Islander health and with a parallel understanding of contemporary developments in Aboriginal and Torres Strait Islander Affairs more broadly.

❖ **Understand their organisation**

This means understanding that there are business units in [INSERT ACCHO'S NAME] and knowing what each business unit does, and its relationship to the *Action Plan*.

❖ **Stay informed of major operational developments**

Directors are expected to be especially aware of the conditions of Service Agreements that the Board approves with funding organisations, as well as partnership agreements and MoAs.

Directors are expected to be familiar with new government funding initiatives that impact on [INSERT ACCHO'S NAME]'s Strategic Plan, *Action Plan*, and related policy and program areas.

❖ **Monitor performance**

Directors are expected to read reports to Board in advance of Board meetings and to be especially aware of progress reports provided by the CEO and senior managers, and financial reports.

❖ **Communicate with stakeholders**

Directors are expected to be available to assist the Chairperson and the CEO with representation work involving members, funding bodies, and external partner organisations.

The Board Fulfills Advisory and Networking Roles

2.1 Advisory Role to the CEO

The Board fulfils this advisory role through:

- ❖ Informal discussion with the CEO
- ❖ Offering the CEO access to outside advice, such as an external consultant, or a coach hired for a specific purpose/time
- ❖ Offering mentoring, which can provide rapid access to new areas of knowledge and skills sets

This role requires mutual respect between CEO and Directors.

It is the opposite of policing and micro-managing.

2.2 Resourcing Role through Networking

Directors are expected to contribute to the work that [INSERT ACCHO'S NAME] is trying to achieve through its annual *Action Plans*.

Directors should add value; they are not passengers, just turning up for meetings.

Directors fulfil this role through their access to two key resources: Information ('intelligence') and Physical Resources

- ❖ Information can be about competitors; funding organisations; new opportunities
- ❖ Physical Resources can be about sources of funds; partnerships or alliances; access to decision makers

2.3 Special Responsibility on the Chairperson

There are significant expectations on the Chairperson in two roles:

- ❖ Advisory Role, providing political support to the CEO; being accessible as a sounding board for CEO. The Board of [INSERT ACCHO'S NAME] strongly emphasises the importance of a trusting and harmonious working relationship between the Chairperson and CEO.

- ❖ Resourcing Role, with a focus on representation; promotion; advocacy; building [INSERT ACCHO'S NAME]'s reputation

3. The Board Fulfils a Performance Monitoring Role

For organisations such as [INSERT ACCHO'S NAME] that are funded by [insert name of State Health Department], the Commonwealth Departments of Health and Prime Minister & Cabinet, fulfilling this role has been made simpler because their funding agreements contain detailed Performance Schedules and/or Key Performance Indicators that are amenable to documented annual *Action Plans*.

This means that the [INSERT ACCHO'S NAME] Board may monitor performance against 'financials' as well as output 'measures' of the *Action Plan*.

The [INSERT ACCHO'S NAME] Board acknowledges that performance monitoring updates to it from the CEO is facilitated by the CEO ensuring that there are individual or team operational (work) plans linked to the *Action Plan* and to a performance appraisal system.

4. The Board Monitors [INSERT ACCHO'S NAME]'s Compliance Obligations

The Board of [INSERT ACCHO'S NAME] has a commitment to a strong compliance program.

4.1 Core Legislation

The Board recognises that compliance must relate to at least the following legislation and related regulations:

- Corporations Act
- Commonwealth Trade Practices Act
- State Fair Trading Act
- State Occupational Health & Safety Legislation
- Commonwealth and State: Anti-discrimination and equal opportunity legislation
- Taxation legislation
- Commonwealth Privacy Act
- Superannuation Guarantee Act

4.2 Consequences of failing to meet obligations as a Director

The Board recognises that there are a range of consequences that follow on from a failure by Directors to comply with their legal accountabilities:

- Financial penalties
- Compensation orders
- Personal liability for company breaches of the law
- Gaol sentences for compliance breaches

4.3 Implementing a Compliance Program in [INSERT ACCHO'S NAME]

The Board of [INSERT ACCHO'S NAME] has adopted the following 4 "Steps" for its Compliance Program within [INSERT ACCHO'S NAME]:

Step 1:

Board is advised to pass a formal resolution authorising the CEO to establish/continually improve the existing compliance system. The text could be:

“In the context of approving the [INSERT ACCHO’S NAME] *Charter of Corporate Governance*, the [INSERT ACCHO’S NAME] Board reaffirms its full commitment to ensuring that the Board, CEO, managers and staff understand the importance of compliance with all relevant legislation and regulations and that a Compliance Program is implemented.”

Step 2:

The Board and the CEO agree to work together to make “compliance” part of the [INSERT ACCHO’S NAME] corporate culture.

Examples of specific actions will include:

- Add a section in to the *Staff Code of Conduct* relating to the Compliance Program
- Make sure there is an OHS section in the *Finance and/or Human Resources Policy & Procedure Manuals* and that implementation measures have been taken, e.g. the position of OHS Safety Officer is always staffed and there is an OHS Representative for the Office and each building/floor has a designated Fire Warden, and that all these designated persons have received the necessary training
- Make sure that the Chief Finance Officer and related staff comply with policies and procedures relating to finances, with special focus on high risk areas such as travel authorisation, travel allowance, and reimbursements
- Make sure, in the monthly financial reports to the Board, that the Directors actually sight payments made to the Australian Taxation Office and for employee superannuation.

Step 3:

Review the [INSERT ACCHO’S NAME] *Policy & Procedure Manuals* every year, at the same time as the *Action Plan* is being finalised.

Step 4:

Clarify accountabilities for implementation and monitoring aspects of the Compliance Program.

Hence, while the CEO is generally responsible for the implementation of the Compliance Program, some of those responsibilities can be delegated, such as to the Chief Finance Officer for the taxation and superannuation compliance issues.

The Board is accountable for *Corporations Act* compliance issues, and appoints the Company Secretary to implement tasks on its behalf.

EXAMPLE ONLY

5. The Board Manages Risks

5.1 Types of Risk:

The [INSERT ACCHO'S NAME] Board identifies the following 4 types of 'risk':

- (i) Legal (see Section 4 above on 'Compliance')
- (ii) Physical: examples include fire; OHS; server failure
- (iii) Financial risks: examples include solvency/cash flow; budgetary dependence
- (iv) Product and market risks (includes programs, and reputational risk): examples include new competitors; government policy shifts; "Services at Risk"

5.2 Response: Risk Management Strategy

The [INSERT ACCHO'S NAME] Board has adopted a Risk Management Strategy that has two Components:

- (a) Avoiding disaster, reducing risk, spreading risk
- (b) Pre-empting risk through entrepreneurial behaviour

5.3 Implementing the Risk Management Strategy

The [INSERT ACCHO'S NAME] Board has approved the following 6 'steps' for developing the implementation of its approved risk management strategy.

❖ Step 1:

Define the environment in which the [INSERT ACCHO'S NAME] is operating

- The [INSERT ACCHO'S NAME] Board has considered this issue and accepts that it is operating in what the management strategist Igor Ansoff has termed "Level 4 Turbulence".

- This requires continual adaptation and entrepreneurial behaviours from Directors, managers and employees, an organisational structure that is entrepreneurially aligned, and a linked staffing/personnel capacity.

EXAMPLE ONLY

❖ **Step 2:**

Identify the Risks

- The [INSERT ACCHO'S NAME] Board accepts that all of the above risks apply, that is: legal; physical; financial; product/market

❖ **Step 3:**

Analyse and Evaluate Each Main Risk

- How likely is each risk; how big would be the impact/damage on a scale of 'high', 'medium', 'low'

❖ **Step 4:**

Respond to the Risk

- avoid; reduce likelihood; reduce impact; transfer (e.g. insurance); retain; pre-empt (if possible)

❖ **Step 5:**

Monitor and Review Performance

- Use the annual *Action Plan* cycle, especially Step (1) and Step (2)

❖ **Step 6:**

Communicate and Consult with Key Stakeholders

- including funding bodies

A *Risk Management Plan* template form will be used by [INSERT ACCHO'S NAME] to document these Steps. The *Risk Management Plan* is to be incorporated into the Strategic Plan and will be reviewed annually at the Board's workshop to update the Strategic Plan.

6. The Board's Role in Evaluating the CEO

6.1 Principles for Performance Evaluation

The [INSERT ACCHO'S NAME] Board will evaluate the performance of the CEO against the 'measures' in the annual *Action Plan* and the resources for them allocated in the annual Budget, and the core duties specified in the *Charter of Corporate Governance* and in the CEO's position description.

When the [INSERT ACCHO'S NAME] Board assesses the performance of the CEO against the *Action Plan*, it needs to:

- be accurate, efficient, balanced, confidential, and professional
- apply the performance appraisal system approved by the Board

The Board has approved a standard performance appraisal system to be used for all managers and employees.

6.2 Standard Areas of Board-CEO Conflict

When the [INSERT ACCHO'S NAME] Board assesses the performance of the CEO, it will be conscious of the following areas where Boards and CEOs typically conflict in the Aboriginal and Torres Strait Islander Community Controlled Health Sector, and the [INSERT ACCHO'S NAME] Board will be mindful not to allow these kinds of conflicts to affect its evaluation:

1. Hiring & Firing

- Board exceeding its limits for hiring and firing staff
- Refusal by Directors to be bound by policies and procedures regarding selection and recruitment

2. Micro-Managing

- The Board getting involved in day-to-day administration of [INSERT ACCHO'S NAME]

3. Contact with Staff

- Directors going directly to staff
- Raising staff issues at Board meetings
- Playing 'rescuer' and 'social worker'; having favourites

4.Vehicles

- Demanding access to [INSERT ACCHO'S NAME]'s vehicles
- Refusing to be bound by the policies and procedures for "Vehicle Policy"

5.Travel

- Misusing travel allowance entitlements

6.Money

- Demanding corporation funds be spent improperly, e.g. 'working dinners', misusing Director's stipends

7.Governance Standards

- Refusing to accept the limitations of roles and responsibilities

8.Shifting the Goal Posts

- Changing the bases for accountability, e.g. away from the *Action Plan* and the Budget

7. Exercising The Board's Power to Delegate Authority

7.1 The Legal Considerations of Delegated Authority

The foundation for all delegations of authority is for the Board Directors to spell roles and responsibilities for themselves, the CEO and senior managers

This is why the [INSERT ACCHO'S NAME] Board:

- approves this *Charter of Corporate Governance*;
- endorses *Policy & Procedure Manuals*;
- requires the CEO to sign off the position descriptions for all employees; and
- approves specific delegations, especially on Finances, in a *Finance Policy & Procedure Manual*.

7.2 Areas of Delegated Authority

The [INSERT ACCHO'S NAME] Board has identified at least the following 7 areas where it will delegate responsibility.

Selection and Recruitment

- The CEO will personally lead the processes to select and appoint the Senior Managers

Managing Income and Expenditure

- Realistic limits will be set to expenditure by the CEO and managers
- The CEO will exercise operational supervision and control over income and expenditure, including commitments relating to program or project delivery, new opportunities, or program expansion

Financial Monitoring

- The Board will approve a Financial Management & Information Reporting System to be implemented by the CEO and the Chief Finance Officer
- The Board will review financial reports as often as it meets

Implementing Strategy

- The Board has approved a process for drafting the *Strategic Plan* and for Board sign-off, with delegated responsibilities in the process for the CEO
- The Board has approved a process for drafting the *Action Plan* and Board sign-off, with delegated

responsibilities in the process for the CEO

-The Board is involved fully in the Mid-year and End-year reviews of the *Action Plan* and the annual review workshop of the Strategic Plan

Signing Service Agreements/Contracts

- The Board will review and negotiate all Service Agreements from funding bodies and major contracts with suppliers – e.g. leasing of premises.
- The Board will formally approve Service Agreements from funding bodies and major contracts with suppliers, which will be signed by the Chairperson.

Property and Assets

- The Board, via the *Finance Policy & Procedure Manual*, assigns accountabilities for the Asset Register and its updates
- The Board, via the *Finance Policy & Procedure Manual*, assigns accountabilities for proper use of [INSERT ACCHO'S NAME]'s assets

Staff Management

- The CEO will manage implementation of a performance appraisal system
- The CEO will manage discipline, grievance and termination procedures specified in the Board-approved *Human Resources Policy & Procedure Manual*.

7.3 Guidelines for Delegating Board Authority

The [INSERT ACCHO'S NAME] Board will apply the following *Guidelines* when exercising its power of delegation.

1. Don't undermine the authority of the delegate

Don't ask a Committee and the CEO to do the same job

Don't go behind the back of or around the person/committee given the delegation

2. Don't split a Power into multiple delegations

Don't give two committees different parts of the same job

Don't give the CEO and a committee responsibility for different parts of the same job

3. Give adequate resources to make the delegation work

'Resources' can mean authorised access; new computer software; a project officer part-time, etc.

4. Committees set up by the Board must have their own terms of reference

The Board has approved a 'charter' for the Finance, Risk and Audit Committee

5. Committees set up by the Board should be time-bound

Have all committees come up for re-appointment at the first Board meeting after the AGM so only those that need to continue are continued

6. Review delegations every year in the context of updating the Finance Policy & Procedure Manual

EXAMPLE ONLY

Part 4: Strategies for Continuing Improvement of Board Effectiveness

1. Protecting Directors when Decision Making

[INSERT ACCHO'S NAME] Directors are required to make well-informed decisions.

To do so:

- ◇ They approve the *Strategic Plan*
- ◇ They monitor the CEO and managers through the *Action Plan*
- ◇ They must abide by the *Charter of Corporate Governance* and the *Policy & Procedure Manuals*
- ◇ They must avoid conflicts of interest
- ◇ They must abide by the "Code of Conduct" in the *Charter of Corporate Governance*
- ◇ They must always make decisions that are informed, and in good faith
- ◇ They are obliged to actively instill a culture of compliance with legislation and regulations
- ◇ They should use outside experts when they want specialist advice, including lawyers

[INSERT ACCHO'S NAME] Directors are advised to retain personal copies of all Board papers.

2. The Legal Scope of Protection

[INSERT ACCHO'S NAME] will clearly spell out the scope of its indemnity policy for directors and officers in the specifications it approves for annual renewal of its insurance coverage.

3. Evaluation the Board's own Performance

3.1 Benefits of Evaluation

The [INSERT ACCHO'S NAME] Board recognizes that there can be a number of benefits arising out of an evaluation of its own performance, including:

- Team building among Directors
- Clarifying individual as well as collective roles in the [INSERT ACCHO'S NAME] governance system
- Improving the effectiveness of Board meetings
- Improving the working relationships between the Board and its senior management
- Identifying areas for improving statutory and other reporting requirements.

The [INSERT ACCHO'S NAME] Board accepts that review of how it performs is part of the Board's functions.

The [INSERT ACCHO'S NAME] Board acknowledges that the indicators of performance for the Board must be different from the *Action Plan's* "measures".

The [INSERT ACCHO'S NAME] Board is prepared to trial an external evaluation of its performance against the 24 Sections of the *Charter of Corporate Governance* in 2015.

3.2 The Board's Approach to Performance Evaluation

The [INSERT ACCHO'S NAME] Board has adopted the following 5-step approach to evaluating its performance.

1. Who will be evaluated?

The performance of the Board as a whole will be evaluated. Directors can be evaluated individually, by both the Chairperson and self-assessed.

Although the CEO attends and contributes actively to [INSERT ACCHO'S NAME] Board meetings, the performance of the CEO is evaluated by the Board.

2. Who will be asked for their assessments?

Perspectives about the Board's performance will be sought internally, from:

- Directors themselves
- the CEO

3. Which evaluation techniques will be used?

The evaluation techniques will be mainly qualitative, based on interviews and anecdotes focusing on Board strengths and areas for improvement.

This will be supplemented by a limited use of the quantitative method, using a tightly focused survey questionnaire with a rating scale for responses (e.g., Likert scale, 1-5)

4. Who will conduct the formal evaluation?

The [INSERT ACCHO'S NAME] Board prefers to use an external specialist consultant.

5. What will the [INSERT ACCHO'S NAME] Board do with the results?

The [INSERT ACCHO'S NAME] Board will receive an evaluation report.

The output from this review discussion is to highlight areas for performance improvement and identify what action steps are needed.

4. Directors' Remuneration

The [INSERT ACCHO'S NAME] Board acknowledges that issues to do with Directors' remuneration have become a concern for Aboriginal and Torres Strait Islander Corporations in past years.

The principal issues for the [INSERT ACCHO'S NAME] Board are:

- Policies and procedures relating to directors' travel expenses when representing [INSERT ACCHO'S NAME];
- Policies and procedures relating to directors' accommodation expenses when representing [INSERT ACCHO'S NAME];
- Policies and procedures relating to directors' claims for reimbursements for meals, incidentals and other travel-related expenses when representing [INSERT ACCHO'S NAME];
- Policies and procedures relating to directors' hire of vehicles expenses when representing [INSERT ACCHO'S NAME];
- Policies and procedures relating to 'sitting fees'/'stipends'/other terminology that refer to payments to Directors for attendance and participation at Board meetings.

All of these issues will be incorporated into the [INSERT ACCHO'S NAME] *Finance Policy & Procedure Manual*. The Manual is subject to annual review at the time of framing the annual Budget and *Action Plan*.

5. Developing Directors for Better Performance

5.1 Strategies for Developing Directors

There are four standard strategies available to [INSERT ACCHO'S NAME]:

Training

This is focused on increasing acquisition of competencies (skills and knowledge)

Training can be delivered:

- by an industry body, such as the Australian Institute of Company Directors (AICD), or
- by a specialized private provider, or
- by a Registered Training Organisation (RTO),utilizing a standardized NTIS accredited course

The Board prefers to utilize the AICD.

Development

This is focused on increasing personal self-awareness that improves relationships, behaviours, flexibility and adaptiveness.

Development can be fast-tracked and made practical rather than theoretical by involving different Directors in some external relationship management issues on behalf of [INSERT ACCHO'S NAME], such as:

- Negotiations with funding organisations
- Joint meetings with partners/allies

Mentoring

This is focused on using role models, either:

- a senior [INSERT ACCHO'S NAME] director
- an experienced outside director

Coaching

This is an expensive option. It is focused on intensive, formal capacity building:

- by a skilled coach observing what skills or behaviours need developing

- by working confidentially with an individual director such as the Company Secretary, or openly with the whole Board

In the unlikely event that “coaching” is considered necessary for one or more individual Directors, the decision will be taken by the Chairperson in consultation with the CEO.

The [INSERT ACCHO’S NAME] Board has decided to give highest priority to the first strategy, namely “Training” and second priority to “Development”.

The [INSERT ACCHO’S NAME] annual Budget will provide funds for Directors’ training.

5.2 Strategies for Continuous Quality Improvement

[INSERT ACCHO’S NAME] will utilize both its annual review processes, as well as its internal staff expertise, and its annual CQI Action Plan as the principal mechanisms for driving CQI strategies and programs through its governance, financial administration, service delivery and health programs

6. Selection and Induction of Directors

6.1 Selection

The [INSERT ACCHO'S NAME] *Constitution* spells out the process for electing Directors and their eligibility qualifications.

The [INSERT ACCHO'S NAME] Board believes it has a responsibility to spell out the requirements of elected positions; and the characteristics of an effective Board including skills and knowledge mix and personal qualities, before each election to the Board. The [INSERT ACCHO'S NAME] Board directs the Company Secretary to circulate the relevant extracts from this *Charter of Corporate Governance* regarding the requirements of directors and the related characteristics of effective Boards, when nominations are called for electing Directors.

6.2 Induction

The [INSERT ACCHO'S NAME] Board acknowledges that individual performance as a Director is firmly linked to induction into the duties of the position and the work of [INSERT ACCHO'S NAME]

As a minimum standard, the induction package and process for [INSERT ACCHO'S NAME] Directors should address:

Corporate governance

- Responsibilities
- Board workings
- Types of financial/accounting reports
- *Charter of Corporate Governance*

[INSERT ACCHO'S NAME] structure

- *Constitution*
- [INSERT ACCHO'S NAME] *Strategic Plan* and related *Risk Management Plan*
- [INSERT ACCHO'S NAME] *Action Plan*

[INSERT ACCHO'S NAME] culture

- Stakeholder expectations
- Stakeholder perceptions
- [INSERT ACCHO'S NAME] values

Personal expectations and performance standards of Directors

- Directors' "Code of Conduct"
- *Policy & Procedure Manuals*