



Directors' Confidentiality Agreement

Background

- A. Australian Acupuncture and Chinese Medicine Association Ltd ACN 010 020 390 ("**AACMA**") is a company limited by guarantee incorporated under the *Corporations Act 2001* (Cth) ("**the Act**").
- B. _____ ("**the Director**") is or will become a director of AACMA.
- C. The Director acknowledges their duties under AACMA's Constitution, the Act and at common law to act with due care and diligence, in good faith in best interests of the company as a whole and for a proper purpose, and not to improperly use their position or any confidential information of AACMA to gain advantage for themselves or another person or to cause detriment to AACMA.
- D. AACMA and the Director have entered into this Deed to acknowledge the Director's obligations of confidentiality in relation to Board Information the Director receives access to in the course of their role as a director of AACMA.

Operative provisions

1. Definitions

In this document, unless the context otherwise requires:

Board means the board of directors of AACMA, including the Director;

Board Document means a document or record in any form (including electronic documents, sound recordings and cinematograph films) in which Board Information is embodied and from which may be retrieved with or without the assistance of any device, computer program, key, cipher or password;

Board Information includes all or any part of information concerning AACMA or considered by or concerning the deliberations of the Board and includes:

- (a) reports and information submitted to the Board;
- (b) deliberations of the Board and formal and informal records of such deliberations;
- (c) communications between the Board and/or individual directors (including the Director) of AACMA and other directors or Officers or staff of AACMA in connection with AACMA;

Business Day means a day on which the banks are open in the state of Queensland;

Deed means this deed entered into between AACMA and the Director;

Officer means an officer of AACMA as that term is defined in section 9 of the Act.

2. Confidentiality of Board Information

2.1. General obligation to preserve the confidentiality of Board Information

- 2.1.1. Without limiting the Director's duties to AACMA, subject to the terms of this Deed the Director acknowledges that they must keep confidential all Board Information which is of its nature inherently confidential or designated by the Chair to be confidential.

2.1.2. Subject to any other applicable terms of this Deed, the Director's obligations under this Deed commence on the day the Director signs this Deed or on the day the Director becomes a director of AACMA (whichever comes first) and end upon the day the Director ceases to be a director of AACMA, through whatever means. The ending of the Director's obligations under this Deed does not amount to any waiver by AACMA of any obligations owed by the Director to AACMA at law or under the Act.

2.2. Exceptions

The obligation of confidentiality set out in clause 2.1.1 above does not apply to:

- 2.2.1. Board Information which the Board authorises to be disclosed (such as a non-confidential summary of the Board's minutes or public announcements), but only to the extent that it has been authorised for disclosure;
- 2.2.2. Board Information which comes into the public domain other than as a result of a breach of the obligations set out in this Deed;
- 2.2.3. Board Information in respect of which disclosure is required by law; or
- 2.2.4. Board Information which must be disclosed for the purpose of court proceedings that arise out of the Director's involvement with AACMA, provided that:
 - a. AACMA has waived any claim to solicitor/client privilege in relation to the relevant Board Information; or
 - b. disclosure will not cause AACMA's right to claim solicitor/client privilege in regard to any other Board Information to be waived.

2.3. Limitations on Disclosure

The Director may only disclose Board Information under:

- 2.3.1. clause 2.2.3, after providing AACMA with notice of the requirement to disclose the Board Information (unless providing such notice is prohibited by law) and providing AACMA with a reasonable opportunity to, at its cost, resist the disclosure of the Board Information; or
- 2.3.2. clause 2.2.4, to persons who can demonstrate a legal entitlement to the Board Information for the purpose of the court proceedings and only to the extent that such entitlement can be proved.

2.4. Return of Board Documents

Upon request by the Board the Director must:

- 2.4.1. deliver all Board Documents in their possession or under their control capable of delivery to AACMA's company secretary for storage or destruction; or
- 2.4.2. destroy or permanently erase all Board Documents in their possession or under their control which are not capable of delivery and provide a statutory declaration in a form reasonably acceptable to AACMA's company secretary confirming that the Director has done so.



3. Assignment

None of the rights of the parties under this Deed may be assigned or transferred.

4. Entire Agreement and No Derogation

4.1. This Deed contains the entire understanding of the parties as to its subject matter and any previous understandings or agreements on that subject matter cease to have any effect from the date of this Deed.

4.2. The rights and obligations of the parties under this Deed are intended to be in addition to and not to derogate from or in any way limit the parties rights' and obligations at law or under the Act. The terms of this Deed must be construed accordingly.

5. No Waiver

5.1. The failure of a party to exercise or delay in exercising a right, power or remedy under this Deed does not prevent its exercise.

5.2. A provision of or right under this Deed may not be waived except by a waiver in writing signed by the party granting the waiver, and will be effective only to the extent specifically set out in that waiver.

6. Governing Law and Jurisdiction

6.1. This Deed is governed by the law of Queensland.

6.2. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Queensland.

7. Further Action

Each party must do everything reasonably necessary or desirable to give full effect to this Deed.

8. Faxed Copy of Counterpart on Exchange

8.1. This Deed may be executed in any number of counterparts.

8.2. Each counterpart is an original but the counterparts together are one and the same agreement.

8.3. This Deed is binding on the parties on the exchange of counterparts. A copy of a counterpart sent by email:

8.3.1. must be treated as an original counterpart;

8.3.2. is sufficient evidence of the execution of the original; and

8.3.3. may be produced in evidence for all purposes in place of the original.

9. Notices

9.1. A notice or other communication connected with this Deed ("Notice") has no legal effect unless it is in writing.

9.2. In this clause, "Notice" includes a demand, request, consent, approval, offer and any other instrument or communication made, required or authorised to be given under this Deed.

9.3. The parties' addresses for service are as provided in Schedule 1 (Contact Details).

9.4. A party may provide or change its address for service or email address by giving notice of that change to the other party.



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- 9.5. In addition to any other form of notice provided for by law, a Notice is deemed to have been given or served on the party to whom it was sent:
 - 9.5.1. if sent by post, on the second Business Day after posting;
 - 9.5.2. if sent by email before 5pm on a Business Day at the place of receipt, on the day it is sent and otherwise on the next Business Day at the place of receipt; or
 - 9.5.3. if otherwise delivered before 5pm on a Business Day at the place of delivery, upon delivery, and otherwise on the next Business Day at the place of delivery.
- 9.6. Despite clause 9.5.2, an email message is not treated as given or received if the sender's computer reports that the message has not been delivered.
- 9.7. A notice given or served under this Deed is sufficient if:
 - 9.7.1. in the case of a company, it is signed by a director, Officer or secretary of that company; or
 - 9.7.2. in the case of an individual, it is signed by that individual.
- 9.8. The provisions of this clause are in addition to any other mode of service permitted by law.



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Schedule 1

Contact Details

AACMA

Address for service: PO Box 6254
Upper Mount Gravatt, Qld, 4122

Email address: ceo@acupuncture.org.au

Telephone number: 07 3457 1800

The Director

Address for service: _____

Email address: _____

Telephone number: _____



Signing Page

Executed as a Deed

Executed by the Australian Acupuncture and Chinese Medicine Association Ltd, ACN 010 020 390 in accordance with section 127 of the *Corporations Act 2001 (Cth)*:

Signed, sealed and delivered by the below signed Director in the presence of:

<u>Name of Director</u>	<u>Signature of Director</u>	<u>Date</u>	<u>Director ID Number</u>
<u>Name of Witness</u>	<u>Signature of Witness</u>	<u>Date</u>	
<u>Paul Stadhams</u>			<u>036491624318453</u>
<u>Name of Company Secretary</u>	<u>Signature of Company Secretary</u>	<u>Date</u>	<u>Director ID Number</u>