



CORPORATE GOVERNANCE GUIDELINES FOR STATE ENTERPRISES 2019

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MINISTRY OF FINANCE
ROYAL GOVERNMENT OF BHUTAN



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Published by

Ministry of Finance
Royal Government of Bhutan
PO Box 117
Thimphu 11001
Bhutan

ISBN – 978-99980-836-0-8



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ROYAL GOVERNMENT OF BHUTAN
MINISTRY OF FINANCE
TASHICHO DZONG
THIMPHU

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FINANCE MINISTER

FOREWORD

Promoting good corporate governance has become key for enhancing operational performance of the State Enterprises and increasing shareholder value.

As mandated by the Public Finance (*Amendments 2012*) Act, Ministry of Finance is responsible for monitoring and reporting on performances of State Enterprises. Therefore, for strengthening and promoting good corporate governance and to ensure uniform application of corporate governance standards across the State Enterprises, MoF is pleased to issue the ‘**Corporate Governance Guidelines for State Enterprises (CG Guidelines) 2019**’.

The CG Guidelines 2019 was developed by MoF in close consultation with relevant agencies and was reviewed by a Technical Committee comprising members from RMA, Companies Registrar, DHI and representative from State Enterprises. Further, it was also reviewed by experts from the World Bank and IFC. The CG Guidelines 2019 clearly provides the ownership structures, oversight functions of the Government, roles and responsibilities of the Board and more importantly, it aligns with the relevant laws and regulations. It will serve as a framework for State Enterprises to adopt corporate governance standards based on international best practices.

Therefore, I would like to urge all State Enterprises to comply with the standards prescribed in the CG Guidelines 2019 to strive for excellence in promoting good corporate governance and maximizing return to its equity.

The CG Guidelines 2019 shall come into force from Jan 2019 and shall supersede *Guidelines for the Boards of Government Corporations and for Government-Appointed Board Directors 2004*.

A handwritten signature in black ink, consisting of a large loop at the top, followed by a series of smaller loops and a long, sweeping stroke that ends in an arrowhead pointing towards the upper right.

Namgay Tshering

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Part I: Preliminary

Title and Commencement

1. These Guidelines shall:
 - 1.1 be known as **Corporate Governance Guidelines for State Enterprises 2019** hereafter referred to as CG Guidelines for State Enterprises 2019; and
 - 1.2 come into force on the 26th Day of the 11th Month of the Earth Male Dog Year of the Bhutanese calendar, corresponding to 1st Day of January, 2019.

Purpose

2. The purpose of CG Guidelines 2019 are to:
 - 2.1 promote sound corporate governance in the State Enterprises through adoption of high standards of corporate governance principles and practices;
 - 2.2 provide guidelines to the State Enterprises on Corporate Governance practices that is based on globally accepted standards; and
 - 2.3 facilitate State Enterprises to operate in such a way that maximizes economic value and performance within the overall guidance of the Public Finance Act 2007 and the Companies Act 2016 and the amendments thereof.

Legal framework

3. The Corporate Governance Guidelines draws its legal basis from:

3.1 Public Finance Act of Bhutan 2007 (Amendments thereof); and

3.2 The Companies Act of Bhutan, 2016 and its amendments thereto.

Application

4. The applicability of the Guidelines:

4.1 All State Enterprises under Ministry of Finance;

4.2 Financial Institutions under Ministry of Finance shall also comply to these Guidelines in addition to the Corporate Governance Rules & Regulations issued by the Royal Monetary Authority; and

4.3 Druk Holding and Investment (DHI) and its portfolio companies shall be governed by the Royal Charter, Corporate Governance Code and Policies issued by DHI. However, DHI shall submit periodic report of its performance to the Ministry of Finance which shall be as per the reporting framework prescribed in these Guidelines.

Compliance

5. The compliance to the Guidelines shall be based on the principle of “**comply or explain**”.

6. In case of non-compliance, the State Enterprises shall give an explanation for not complying with the Guidelines and justify how the intention of the particular provision of the Guidelines is achieved by other stated means.
7. All State Enterprises shall disclose compliance with the Guidelines and report on their corporate governance arrangements to a sufficient level to boost shareholders' confidence.
8. The compliance to the Guidelines shall be reported separately as 'Corporate Governance Report' in the Annual Report.

Interpretation

9. The power to interpret any provision of the CG Guidelines for State Enterprises 2019 is vested with the Ministry of Finance.

Amendment

10. The CG Guidelines for State Enterprises 2019 may be amended in part or in whole, by the Ministry of Finance.

Supersession

11. The CG Guidelines for State Enterprises 2019 shall supersede the Guidelines for Boards of Government Corporations and for Government - Appointed Board Directors 2004 from the effective date of the Guidelines.

Part II: Principles of Corporate Governance

12. These Guidelines have been developed based on the following key Principles and core values:
 - 12.1 Principle I: Ensuring basis for effective corporate governance framework;
 - 12.2 Principle II: Equitable treatment of shareholders;
 - 12.3 Principle III: Role of stakeholders in corporate governance;
 - 12.4 Principle IV: Transparency and Disclosure; and
 - 12.5 Principle V: Responsibilities of the Board.
13. These Guidelines shall be followed in line with the following four core values:
 - 13.1 **fairness:** These Guidelines shall promote and protect shareholders' rights and ensure equitable treatment of all shareholders, including minority and foreign shareholders and provide all shareholders an opportunity for effective grievance redress mechanism for violation of their rights.
 - 13.2 **responsibility:** The Guidelines shall recognize the rights of stakeholders as per law, and encourage active co-operation between enterprises and stakeholders in creating wealth, jobs, and the sustainability of the enterprises.

- 13.3 **transparency:** The Guidelines shall ensure timely and accurate disclosure on all material matters regarding the Company, including its financial situation, performance, ownership, and governance structure.
- 13.4 **accountability:** The Guidelines shall provide strategic guidance to the Company for effective monitoring of management by the Board and ensure Board's accountability to the Company and shareholders.

Principle I: Ensuring basis for effective corporate governance framework

- 14. The Corporate Governance framework shall be consistent with the rule of law and good corporate governance practices, which promote ethical, transparent and responsible business.
- 15. The division of responsibilities among different authorities shall be clearly articulated and designed to serve the public interest.
- 16. The conduct of Board Directors and Company officers shall be governed by the Companies Act of Bhutan 2016 and amendments thereto and Code of Conduct issued under *Schedule I* of these Guidelines.
- 17. These Guidelines shall complement current legal requirements to set high standards for corporate governance in Bhutan. In case of any inconsistencies

between these Guidelines and other Acts and laws of the country, the latter shall prevail.

Principle II: Equitable treatment of shareholders

18. All Shareholders shall have basic rights, which includes the right to:
 - 18.1 have their shares registered;
 - 18.2 buy, transfer or dispose shares;
 - 18.3 obtain relevant and material information on the companies on a timely and regular basis;
 - 18.4 participate and vote in General Shareholder Meetings proportionate to their shareholding;
 - 18.5 nominate, vote to elect or remove members of the Board; and
 - 18.6 share in the profits of the companies.
19. Shareholders shall have the right to participate and approve decisions on the following businesses:
 - 19.1 amendments to the statutes, or Articles of Incorporation or similar governing documents of the Company;
 - 19.2 authorization of additional shares; and
 - 19.3 extraordinary transactions, including the transfer of all or substantially all assets, which in effect result in the sale of the Company.

20. The Board shall ensure that all shareholders are provided an opportunity to participate and vote in General Shareholder Meetings and be informed of the rules, including voting procedures, which govern General Shareholder Meetings.
21. The Board shall make sure that the processes and procedures of General Shareholder Meetings allow equitable treatment of all shareholders including minority shareholders.
22. The Board shall keep the shareholders informed on all material matters affecting the Company.
23. Shareholders shall have the right to vote in person or in absentia, and equal effect should be given to votes whether cast in person or in absentia.
24. The Company and the Board shall ensure adequate consideration and protection of minority shareholders and shall have an effective means of redress.

Principle III: Relations with stakeholders

25. The rights of stakeholders that are established by law or through mutual agreements shall be respected.
26. Where stakeholder interests are protected by law, stakeholders shall have the opportunity to obtain effective redress for violation of their rights.

27. All stakeholders shall have access to relevant and non-confidential information limited to stakeholders' relationship with the Company.
28. Stakeholders including employees, shall be able to freely communicate their concerns about unethical practices to the Board or to the competent public authorities.
29. Stakeholders shall ensure that State Enterprises are not used as vehicles for financing political activities. State Enterprises themselves should not make political campaign contributions.

Principle IV: Disclosure and Transparency

30. The Board and the Company shall ensure timely and accurate disclosure on all material matters regarding the Company, including the financial situation, performance, ownership, and governance of the Company.
31. Disclosures shall be reported in the Annual Report including the audited financial statements in accordance with the provisions of the Companies Act and amendments thereof.
32. The Board and the Company shall report on (financial, social and environmental) performance to provide broader perspective and create greater business value:
 - 32.1 report on the Financial Statements and Operating Results of the Company;

- 32.2 report on Corporate Social Responsibility (CSR) activities carried out or supported by the Company as a measure of how socially responsible the Company has been throughout its operations; and
- 32.3 report on environmental activities carried out or supported by the Company as a measure of how environmentally responsible it has been.
- 33. The Annual Report shall also include material information on major share ownership, including beneficial owners, voting rights and dividend payments and a separate section on Corporate Governance Report.
- 34. The Corporate Governance Report shall contain at least the following information:
 - 34.1 a statement of compliance with these Guidelines, including a full justification of any deviation;
 - 34.2 information on the Company, subsidiaries and the names of directors at each level;
 - 34.3 information about Board members, including their qualifications, non-executive, executive and independent directors clearly identified and other Company directorships;
 - 34.4 remuneration of members of the Board and key executives and number of times in the year the Board and each committee met and attendance details for each director;

- 34.5 director's shareholding with particulars such as number, description and amount of shares in, or debentures of, the Company or any other body corporate, being the Company's subsidiary or holding Company;
 - 34.6 reasonably foreseeable material risks that may include: risks that are specific to the industry or the geographical areas in which the Company operates; financial market risks including interest rate or currency risk; risk related to off-balance sheet transactions; business conduct risks; and risks related to the environment;
 - 34.7 key issues that may materially affect the performance of the Company or that may have significant impacts on the stakeholders; and
 - 34.8 the practices of Board evaluation including key findings of the Board evaluation and actions the Board and the Company proposes to address such findings.
- 35. The detailed explanation of departures, if any shall be included in the Statements of Corporate Intent.
 - 36. The Board shall encourage the Company to maximize the use of the Company's website and other mechanisms such as letters and media to ensure equitable and timely dissemination of information to shareholders.

Principle V: The Responsibilities of the Board

37. The governing body of a State Enterprise shall be the Board of Directors.
38. The appointment, roles and responsibilities of the Board of Directors shall be as specified in the Guidelines.
39. The Board, as an apex body for the governance of the Company, shall broadly be responsible for:
 - 39.1 ensuring that the policy objectives of the Company are attained and that the Company operates in an efficient and effective manner;
 - 39.2 reviewing and guiding corporate strategy, major plans of action, risk policy, annual budgets, business plans and set performance targets;
 - 39.3 monitoring implementation and corporate performance; and overseeing major capital expenditures, acquisitions and divestitures.

Part III: Ownership and Oversight Functions

State ownership

40. The Royal Government of Bhutan exercises the ownership of State Enterprises in the interest of the general public.
41. The ultimate purpose of the ownership in the State Enterprise is to maximize value for society through an efficient allocation of resources.

42. The Government's shares in a State Enterprises are held by the Ministry of Finance.
43. Druk Holding and Investments (DHI) is the investment arm of the government and Ministry of Finance is the sole shareholder of DHI.
44. Druk Holding and Investments (DHI) is a holding Company which holds a centralized ownership over its portfolio of State Enterprises on behalf of the government.
45. Ministry of Finance holds ownership rights in State Enterprises other than DHI portfolio companies.

Oversight functions

46. Ministry of Finance provides oversight functions and ensures that State Enterprises meet the purpose of their establishment.
47. MoF and DHI will set mutually agreed upon performance benchmarks for DHI.

Role of the Government

48. The Royal Government of Bhutan shall act as an informed and active owner, ensuring that the governance of State Enterprises is carried out in a transparent and accountable manner with a high degree of professionalism and effectiveness.
49. In carrying out the above mandates, the Government shall be responsible for the following:

- 49.1 endorse the nomination of Chairperson and Board Directors in the State Enterprises ;
- 49.2 endorse the nomination of Government Directors on the Board of portfolio companies in which the Government has less than fifty percent shareholdings;
- 49.3 endorse the remuneration structure for the employees of State Enterprises;
- 49.4 provide approval for foreign collaboration agreements and foreign equity participation;
- 49.5 approve investment and divestment of shares/privatization of companies based on the recommendations of the Ministry of Finance;
- 49.6 approve foreign borrowings, re-financing and repayment of loans and changes thereto based on the recommendations of the Ministry of Finance;
- 49.7 approve domestic borrowing, re-financing and repayment of loans exceeding the aggregate of the paid up share capital of the Company;
- 49.8 provide directives to the State Enterprises with regard to matters of public interest; and
- 49.9 allow State Enterprises operational autonomy to achieve their defined objectives and refrain from intervening in State Enterprise management.

Role of the Ministry of Finance

50. The Government's share in the State Enterprises and portfolio companies shall be held by the Minister of Finance who shall then be primarily responsible for monitoring and reporting the performance of State Enterprises.
51. The Minister of Finance shall present the annual report of State Enterprises as a whole to the Parliament. Such report shall contain, among others, particulars of:
 - 51.1 performance report of State Enterprises including DHI (financial and non-financial);
 - 51.2 any material loss, any unauthorized expenditure, irregular expenditure and wasteful expenditure that occurred if any during the year;
 - 51.3 disciplinary steps taken as a result of losses mentioned in (clause 51.2) above;
 - 51.4 material losses recovered or written off; and
 - 51.5 other matters that may be prescribed by the Ministry of Finance.
52. The Minister of Finance shall be prohibited from being involved in the governance or day-to-day management decisions of the State Enterprises.

53. The Ministry of Finance as the custodian of the Government's shares, shall be responsible for the following:
- 53.1 ensure that the State Enterprises function is in line with the purpose of its establishment and recommend any changes thereto;
 - 53.2 holding share certificates on behalf of the State;
 - 53.3 attending general shareholder meetings and effectively exercising voting rights;
 - 53.4 establishing well-structured, merit-based and transparent nomination of Board and endorsement of CEO appointment;
 - 53.5 establishing clear remuneration guidelines for State Enterprise that fosters the long- and medium-term interest of the enterprise;
 - 53.6 fixing sitting fees of the Board;
 - 53.7 monitoring the performance of State Enterprise;
 - 53.8 endorse the Articles of Incorporation of State Enterprises and any amendments thereto;
 - 53.9 set targets and monitor performances of State Enterprises;
 - 53.10 evaluate the performance of the Board as per the Performance Evaluation Framework (PEF) prescribed by MoF; and

- 53.11 review and issue corporate Guidelines and regulations in consultation with relevant stakeholders as and when required.
- 54. The Ministry shall also review and recommend to the Government for endorsement of the following:
 - 54.1 nomination of Board Directors of State Enterprises including the Chairperson;
 - 54.2 nomination of Government Directors on the Board of the portfolio companies in which the Government has less than fifty percent shareholdings;
 - 54.3 appointment and remuneration package of Chief Executive Officer based on Board's recommendation;
 - 54.4 initial capital structure of the State Enterprises;
 - 54.5 foreign collaborations and foreign equity participation;
 - 54.6 investment, transfer and divestment of shares/ privatization of companies;
 - 54.7 foreign borrowings, re-financing and repayment of loans and changes thereto;
 - 54.8 domestic borrowing, re-financing and repayment of loans exceeding the aggregate of the paid-up share capital of the Company;

- 54.9 sovereign guarantee, indemnity, or security upon such terms and conditions as may be appropriate; and
- 54.10 remuneration of the employees of State Enterprises.

Role of Portfolio Ministry

55. The Portfolio Ministry shall:

- 55.1 ensure that the State Enterprises are in line with the purpose of its establishment and recommend any changes thereto;
- 55.2 ensure that Government policies are adhered to at all times by the State Enterprises;
- 55.3 provide technical expertise and assistance wherever necessary;
- 55.4 consult the Ministry of Finance on any policy shift or policy interventions in State Enterprises; and
- 55.5 be prohibited from being involved in the governance or day-to-day management decisions of the State Enterprises.

Reporting by State Enterprises

- 56. State Enterprises shall submit Annual Performance Report on the operations of the Company within three months after the end of each financial year to the Ministry of Finance.

57. Except for important or urgent matters, disclosure may be made through the regular reporting process.
58. State Enterprises shall report on material loss, any unauthorized expenditure, irregular expenditure that occurred if any during the year; disciplinary steps taken as a result of losses; material losses recovered or written off; and other matters that may be prescribed by the Ministry of Finance. Where there are other shareholders, State Enterprises shall also keep them informed simultaneously.
59. State Enterprises shall keep Ministry of Finance informed in relation to any significant issues relating to corporate governance, including any significant changes to their corporate governance practices, as and when they occur.
60. State Enterprise shall submit specific recommendations and strategies for improvement in case of underperforming companies and also submit any other information as required by the Ministry of Finance.
61. The financial and non-financial reports shall be submitted to the Ministry of Finance as per the Reporting Framework given in *Schedule II* of these Guidelines.

Part IV: The Board

Board of Directors

62. The Board of Directors shall be the governing body of the State Enterprises. The Board is the ultimate decision making body of the Company except with respect to those matters reserved to the shareholders.

63. It shall be responsible to govern the Company as honest and competent stewards.

Board Size and Composition

64. An ideal board size is important to ensuring a well-functioning, effective and professional board. The size of the Board depends on a number of factors, such as State Enterprise's size, risk profile, and areas of operation.
65. The State Enterprise Board shall comprise between three to nine directors keeping in line with the above (clause 64).
66. The Chief Executive Officer (CEO) on appointment shall automatically be an Executive Board Director.
67. The Chairperson and the CEO shall not be one and the same person to ensure proper check and balance and better accountability.
68. The Board shall be diverse in composition, including gender and age to promote better decision making.
69. The Board shall have a balance of diverse skills, core competencies and capabilities, knowledge and experience to aid informed, independent and objective decision making.
70. At least one-third of the directors shall be independent to protect the interest and investment of all the shareholders and particularly the minority shareholders.

Roles and Responsibilities of the Board

71. Roles and responsibilities of the Board are to:

- 71.1 provide leadership by encouraging new ideas, initiatives and to guide Company's strategic direction;
- 71.2 set Company's values, standards (including governance and ethical standards) and policies;
- 71.3 keep shareholders informed on all material matters affecting the Company;
- 71.4 ensure that obligations to shareholders and other stakeholders are understood and met;
- 71.5 oversee accountability and ensure integrity of the Company's accounting, financial reporting, internal control systems and independence of internal audit;
- 71.6 approve annual budget and business plan;
- 71.7 monitor and evaluate the implementation of strategies, policies and business plans;
- 71.8 ensure a transparent and effective selection process of the CEO and senior managers of the Company;
- 71.9 select and seek endorsement for the appointment of the CEO from the Ministry of Finance;
- 71.10 monitor the effectiveness of governance practices under which the Company operates, including managing conflicts of interests;

- 71.11 review and recommend reasonable levels of employee remuneration corresponding with the nature, scope and complexity of the Company functions to the Ministry of Finance;
- 71.12 evaluate performance of the CEO annually and submit the same to the Ministry of Finance;
- 71.13 notify Ministry of Finance on the expiry of the term of the Directors;
- 71.14 review the annual performance of Head of Internal Audit and Company Secretary;
- 71.15 review and approve major policies and procedures including Personnel, Administrative and Financial Management Rules, organizational structure and any other relevant policies of the Company;
- 71.16 delegate authority to CEO where necessary for efficient and effective functioning of the Company;
- 71.17 institute Board Committees to perform specific tasks and delegate authority appropriately;
- 71.18 assess the status of an independent director and notify the Ministry of Finance if there is any change in the independence status. The characteristics of lack of independence as a director are as described in *Schedule III* of these Guidelines;

- 71.19 promote leadership development and proper succession planning for key management positions in the Company;
 - 71.20 ensure an effective Grievance Redress Mechanism to protect the rights of stakeholders of the Company;
 - 71.21 ensure that the Annual Performance Compact is submitted to Ministry of Finance for review before signing between the Board and management;
 - 71.22 ensure compliance with all applicable laws and regulations;
 - 71.23 promote governance of the Company that will enable the pursuit of Gross National Happiness;
 - 71.24 ensure that State Enterprises have well documented Human Resource Development (HRD) Policy; and
 - 71.25 approve appointments and promotions of senior managers (General Managers and above) including Head Internal Auditor and the Company Secretary.
72. In the event of exceptional circumstances such as when there is unexpected vacuum in the CEO's position, the Board shall reserve the authority to temporarily manage day to day affairs of the Company till such time the new CEO is appointed.

73. The Board is encouraged to promote business integrity, internal controls, ethics and compliance measures in its operations.
74. Carry out any other matter specified in the Companies Act or in any other relevant Act.

Accountability of the Board of Directors

75. The Board shall be collectively accountable for the governance of the Company.
76. The directors shall be individually accountable for his/her actions as a member of the Board.
77. The director must exercise:
 - 77.1 ‘*duty of care*’ : he or she acts on an informed and prudent basis and exercise reasonable care in the decisions it makes for the company.
 - 77.2 ‘*duty of loyalty*’ : he or she acts in good faith and in the best interest of the company and the stakeholders.

Board Sub-Committees

78. The establishment of Board Sub-Committees can be instrumental in enhancing the efficiency of the Boards by changing the board culture and reinforcing its independence and legitimacy in areas where there is a potential for conflicts of interests.
79. Board Sub-Committees that may add value to boards include those in the fields of audit, remuneration, strategy, ethics, risk, and procurement.

80. Committees may be constituted in accordance with the Company's requirements and circumstances such as size of the Company and specific risks faced or competencies in order to enhance the effectiveness of Board functions.
81. Each Board Committee shall have a clear written Terms of Reference (ToR) approved by the Board.
82. The Company shall at least have a Board Audit Committee which shall be responsible for Company Reporting (including financial statements and compliance), Internal Controls and Risk Management Systems and Internal and External Audit matters to the Board as specified in *Schedule IV* of these Guidelines.
83. Board Committees shall support Board decision-making by providing recommendations to the Boards.
84. Board Committees are not decision-making bodies unless delegated by the Board.
85. The CEO shall not be the member of an Audit Committee and the Chairperson shall not chair any Board Committees.

Board Selection and Appointment

Nomination Process

86. Investment and Corporate Governance Division (ICGD), Department of Macroeconomic Affairs (DMEA) shall compile the list of existing Board Directors who are due for completion of the term.

87. Prepare list of potential candidates in consultation with Portfolio Ministry based on relevance of qualification, functional skills and personal attributes necessary for effective Board performance and obtain their CVs.
88. ICGD, DMEA shall coordinate all the Board selection and appointment processes. The selection of potential candidates is based on the following broad factors:
 - 88.1 relevance of qualification, skills and industry knowledge;
 - 88.2 gender and sector representation;
 - 88.3 number of Board directorships in other companies; and
 - 88.4 if participated in politics then complete the minimum ‘cooling off period’ of one year.
89. The vacancies due to resignation or termination shall be informed to Ministry of Finance by Board Chairperson.
90. The potential candidates from the civil service, corporate and private sectors shall be considered for Board appointments.
91. Candidates in financial institutions shall fulfill the RMA’s Fit & Proper test.
92. Re-appointment of incumbent director shall be based on adequate past performance including his/her quality of contribution to the Company.

93. DMEA shall seek consent from the nominated candidates and submit the preliminary list of nominations to Ministry of Finance for review and finalization.

Appointment and Reappointment of Board Directors

94. The Ministry of Finance in consultation with Portfolio Ministry shall review and recommend the list of nomination of Board Directors to Lhengye Zhungtshog for endorsement. The list shall also include nomination of Chair of the Boards and Government Directors on the Board of portfolio companies in which government has less than fifty percent shareholdings;
95. After obtaining endorsement from Lhengye Zhungtshog, Ministry of Finance shall convey the government endorsement to the companies on the Board composition and appointments.
96. The respective Company Secretaries shall complete the Board appointment formalities.
97. The new Board appointments and re-appointments shall be formally approved in the General Meeting of the Company.
98. The Directors shall be appointed for a term of three years.
99. Re-appointment of directors may be recommended by the Ministry of Finance subject to excellent past performance.

100. Each director shall hold not more than a total of three directorships in the companies.
101. Cross representation by a director on the Board of another Company conducting a similar business shall be prohibited.
102. A person who has participated in politics shall be eligible for appointment as director only upon completion of the minimum 'cooling off period' of one year.
103. For the purpose of good corporate governance, the independent director shall serve for maximum of one term.
104. An independent director may be re-appointed for a second term but would no longer be considered independent and would be a non-executive director.
105. The Chairperson of the Board shall be appointed from among the directors.

Removal

106. A director may be removed on the following grounds:
 - 106.1 convicted in a court of law for a criminal offence and sentenced to imprisonment;
 - 106.2 fails to attend two-thirds of the total Board meetings held in any one year;
 - 106.3 if his/her conduct is found to be detrimental to the Company;

- 106.4 if his/her conduct breaches the code of conduct of their parent agency or the Company where he/she is the director ; or
- 106.5 if transferred or superannuated from civil service before the completion of his/her tenure.
107. Shareholders may, by ordinary resolution, remove a director before the expiry of period of his/her office.
108. A written notice signed by a shareholder at least fifteen days before the General Meeting shall be required for proposing any resolution to remove a director along with the reasons or grounds for such removal.
109. A director may resign from the Board by giving notice in writing to the Company and such resignation shall be effective:
- 109.1 in the case of a Chief Executive Officer or an executive director, from the date of its acceptance by the Board; and
- 109.2 in any other case, from the date of receipt of the resignation notice.
110. If the directorship in ex-officio position is transferred or superannuated from civil service before the completion of the tenure, he/she shall cease to be the Director of the Board.
111. If an employed person serving as a Board Director is suspended, compulsorily retired or terminated from the

civil service, corporate body or private employment on disciplinary ground, he/she shall automatically be removed from the Board.

112. For any other reasons as stipulated in the Companies Act or other applicable regulations.

Roles and Responsibilities of the Chairperson of the Board

113. The Chairperson's role shall include, but not be limited to the following:

- 113.1 lead the Board to promote high standards of governance and to ensure Board effectiveness and smooth functioning of the Company;
- 113.2 ensure effective accountability and governance of the Company consistent with relevant legislations of the country;
- 113.3 set the Board agenda in consultation with other directors and the CEO and preside over Board meetings to ensure that adequate time is available for discussion of all agenda items, in particular, on the strategic issues;
- 113.4 conduct effective Board meetings and encourage a culture of openness, active participation and constructive debate;
- 113.5 ensure accurate records of Board meetings are taken and Board decisions are implemented;

- 113.6 ensure that the directors receive complete, adequate and timely information to enable quality and informed decision-making;
- 113.7 encourage constructive relations within the Board and between the Board and management to ensure the Company is managed effectively;
- 113.8 approve leave, travel and training of the CEO. In absence of Chairperson, the Board shall be the approving authority;
- 113.9 meet shareholder expectations by leading and ensuring effective annual CEO, Board and Board Committees evaluation processes;
- 113.10 submit periodic reports to the Ministry of Finance as required under these Guidelines; and
- 113.11 develop and maintain sound relations and communications with shareholders and stakeholders with support of the Chairpersons of Board Committees.

Roles and Responsibilities of the Chief Executive Officer

- 114. The CEO shall be responsible to the Board for the overall day-to-day operation, management and performance of the Company. The CEO's responsibilities and authorities shall be clearly laid down in the Terms of Reference (ToR) of CEO's employment contract approved by the Board.

115. The ToR may include the following key responsibilities amongst others:

- 115.1 managing the Company in accordance with the strategy and performance targets, policies and directives approved by the Board;
- 115.2 recommending long-term vision and strategy for the Company to the Board;
- 115.3 leading the management team in managing the day-to-day operations of the organization, its people and resources;
- 115.4 implementing all Board approved plans, policies and meet performance targets;
- 115.5 ensuring the authorities delegated by the Board are exercised in a competent manner and within the intent of such delegation and referring all matters outside the authorities delegated, to the Board for approval;
- 115.6 acting as the Company's interface with its stakeholders protecting and enhancing the image and reputation of the Company;
- 115.7 ensuring compliance with legal and regulatory obligations;
- 115.8 promoting leadership development and proper succession planning for key positions in the Company;

- 115.9 ensuring compliance to ethical standards established by Board;
- 115.10 keeping the Board apprised of all matters of significance;
- 115.11 providing the Board with accurate, relevant, timely and complete information;
- 115.12 ensuring an effective, efficient and transparent systems of financial and risk management and internal control and an appropriate procurement system which is competitive, transparent and cost-effective;
- 115.13 ensuring a system of costing for pricing decisions and marketing;
- 115.14 bring to the notice of the Board or relevant Board Committee, the following:
 - 115.14.1 any case of misuse of funds or property of the Company;
 - 115.14.2 any potential case(s) of litigation, disputes etc; and
 - 115.14.3 any potential case(s) of risks to the Company;
- 115.15 notify the Board on the expiry of the term of the directors; and
- 115.16 other responsibilities as designated by the Board from time to time.

Selection and Appointment of CEO

Board shall select the CEO through any of the following selection options:

Re-appointment of incumbent CEO

116. For the re-appointment of incumbent CEO:

116.1 Review performance rating of the incumbent CEO. The incumbent CEO should have outstanding past performance as per Board evaluation and criteria set by the Board from time to time.

116.2 The Board shall assess the suitability of the incumbent CEO's attributes and competencies against the requirements prescribed in the Terms of Reference.

116.3 At least 75% of the Board (*excluding the CEO*) must agree to propose for the re-appointment.

116.4 The Board shall recommend re-appointment of the incumbent CEO to Ministry of Finance for endorsement and finalization of the remuneration package.

116.5 Ministry of Finance will review the Board's recommendation and submit to Lhengye Zhungtshog for endorsement.

116.6 After obtaining the Lhengye Zhungtshog endorsement, Ministry of Finance shall convey the

government endorsement on the CEO nomination to the Company.

- 116.7 The Board shall then appoint the incumbent CEO with the approval of the Company in the General Meeting of the Company.

Selection through Open Competition

117. For selection through Open Competition :

- 117.1 Announce the CEO's position in the media.
- 117.2 Screen the applicants against the minimum requirements prescribed in the Terms of Reference.
- 117.3 Conduct due diligence of the applicants which shall include checks on integrity and records of past performance.
- 117.4 Short list 2-5 candidates.
- 117.5 Invite the shortlisted candidates for interview by the Board and rank the candidates.
- 117.6 The Board shall select the highest ranked candidate and recommend the selected candidate to Ministry of Finance for endorsement and finalization of the remuneration package.
- 117.7 Ministry of Finance will review the Board's recommendation and submit to Lhengye Zhungtshog for endorsement.

117.8 After obtaining the Lhengye Zhungtshog endorsement, Ministry of Finance shall convey the government endorsement on CEO nomination to the Company.

117.9 The Board shall then appoint the new CEO with the approval of the Company in the General Meeting of the Company.

Selection through potential candidate search

118. For selection through potential candidate search:

118.1 The Board shall process for selection through potential candidate search if there is a lack of suitable applicant despite completing the above selection options for re-appointment of incumbent CEO and through open completion.

118.2 The Board shall identify at least 2 potential candidates (internal or external).

118.3 Conduct due diligence for each candidate.

118.4 Invite the best candidate for interactive discussion with the Board.

118.5 The Board shall recommend the selected candidate to Ministry of Finance for endorsement and finalization of the remuneration package.

- 118.6 Ministry of Finance will review the Board's recommendation and submit to Lhengye Zhungtshog for endorsement.
- 118.7 After obtaining the Lhengye Zhungtshog endorsement, Ministry of Finance shall convey the government endorsement on CEO nomination to the Company.
- 118.8 The Board shall then appoint the new CEO with the approval of the Company in the General Meeting of the Company.

Minimum eligibility criteria for the post of CEO

- 119. The minimum eligibility criteria for the post of CEO are as follows:
 - 119.1 Minimum qualifications of Bachelors Degree;
 - 119.2 At least fifteen years work experience, which should include a minimum of three years at Chief/General Manager level or equivalent position;
 - 119.3 The incumbent CEO shall be eligible for only one-time non-competitive extension/re-appointment subject to fulfillment of re-appointment conditions as per these Guidelines;
 - 119.4 The incumbent Directors of State Enterprises shall not be eligible for the post of CEO;

- 119.5 Notwithstanding the above (clause 119.4), the incumbent Director may resign from the Board prior to applying for the post of CEO; and
- 119.6 Should have completed the minimum ‘cooling off period’ of one year if participated in politics.
- 120. The Board shall select the CEO based on the procedure and eligibility criteria specified above.
- 121. The tenure for CEO shall be three years with the approval of the Company in the General Meeting.
- 122. The CEO may be re-appointed for second term subject to outstanding past performance and as per the recommendation of the Board.
- 123. The CEO shall be appointed for not more than two consecutive terms.

Removal

- 124. Company shall remove a Chief Executive Officer if he/she:
 - 124.1 is an undercharged insolvent or has at any time been declared insolvent by Court;
 - 124.2 has been convicted of a criminal offence and/or sentenced to imprisonment;
 - 124.3 is of unsound mind declared by a Court;
 - 124.4 has not paid any call in respect of shares of the Company held by him/her;

- 124.5 if his/her conduct is found to be detrimental to the interest of the Company;
- 124.6 used his/her position for personal gains or favored certain parties with vested interest that is adverse to the objectives of the Company;
- 124.7 has vested interest in a business which has substantial dealings with the Company or in a business which is a competitor of the Company;
- 124.8 fails to achieve or meet the minimum performance target set by the Board for two consecutive years;
- 124.9 if a person appointed as CEO of a Company becomes a CEO of another Company; or
- 124.10 for any other reasons required by the Companies Act or any other regulatory laws.

Roles and Responsibilities of the Company Secretary

- 125. A State Enterprise shall appoint a Company Secretary. The Company Secretary shall function as the Secretary to support the Board in carrying out its role and shall be appointed by and accountable to the Board of the Company.
- 126. The Company Secretary shall have sound knowledge and experience in good corporate governance practices. He/she shall ensure that Board procedures are both followed and regularly reviewed and provides guidance

to Chairperson and the directors on their responsibilities under various laws and regulations.

127. The Company Secretary shall attend all Board meetings and associated activities unless the Board instructs the Company Secretary to withdraw from the meeting.
128. The core responsibilities of the Company Secretary shall include the following:
 - 128.1 preparing Board meeting agenda in consultation with CEO and Chairperson;
 - 128.2 maintaining minutes of the meeting, monitoring and ensuring decisions of the Board are followed-up and actions taken;
 - 128.3 providing governance, administrative, technical and other information support to the Board;
 - 128.4 supporting effective Board administration and providing counsel on the Company's compliance with corporate governance requirements and procedures of the meetings;
 - 128.5 notify CEO and the Board on the expiry of the term of the directors;
 - 128.6 ensuring good practices related to shareholder relations and that the conduct of General Meetings of shareholders are consistent with the law and regulations and with the Company's articles and policies;

- 128.7 coordinating communications with shareholders and assisting shareholder relations to ensure that the Company discloses information in a timely and transparent manner;
- 128.8 serving as a vital link between Company, Board, shareholders, government & regulatory authority;
- 128.9 keeping the non-public information confidential as required by the Company's code of conduct; and
- 128.10 any other responsibilities as per the Terms of Reference (ToR) approved by the Board.

Directors' Remuneration

- 129. Board director shall receive sitting fees and other entitlements for their participation in the Board and committee meetings and official duties in their capacity as a Board Director.
- 130. Board director shall receive fifty percent of the Board sitting fees for any additional assignment of Board committees. Directors shall also be entitled to other expenses as per the Service Rule of the Company.
- 131. With the approval of the Chairperson, invitees other than employees may receive fifty percent of the sitting fee for participating in Board or Board Committee meetings.
- 132. The Company Secretary and Board Committee Secretary shall be paid fifty percent of sitting fee for attending the Board and Board Committee meetings.

- 133. Other employees shall not receive compensation for any Board related work.
- 134. Remuneration of directors shall be regularly reviewed.
- 135. Board Directors shall not be entitled to gifts and concessions on the services or products of the Companies.

Induction and Development Program

- 136. All new directors appointed to the Board and new members of Board Committees shall undertake an induction program to assist them in fulfilling their duties.
- 137. The induction program shall be provided by the Company within three months of the appointment.
- 138. Board directors and Board Committee members may be provided training and development programs to enable them to discharge their duties effectively.

Board Meetings

- 139. The Board must follow all legal requirements in the Companies Act pertaining to the calling of meetings and making decisions.
- 140. All Board meetings shall be normally convened and presided over by the Chairperson of the Board. In his absence, the directors present may elect one director to chair the meeting.
- 141. The Company Secretary shall attend and facilitate all Board meetings and associated activities.

142. In absence of Company Secretary, the Executive Board Director may facilitate the Board meeting and take the minutes.

Attendance

143. All Board members are expected to fully prepare for and make every reasonable effort to attend Board meetings.
144. Other employees of the Company may be required to attend Board meetings or Board Committees meetings if necessary.
145. The meeting of the Board may be conducted by electronic communication or one or more director may participate in a meeting by an electronic communication so long as the director is able to participate in a meeting effectively without an intermediary.
146. Any absences of directors from Board meetings should be explained to the Chairperson. Attendance by video conference or telephone link or by other electronic means is acceptable.

Quorum

147. A quorum for a Board meeting shall be in accordance with requirement under law which is at least two-third of the total Board members available at any given time.
148. A business may be transacted at a Board meeting only when a quorum is present.

Frequency

149. The Board shall meet at least once in every three months or no less than four times per year and as frequently as may be deemed necessary to deal with the business of the Company.

Notice

150. Notice of meeting, including agenda, time and location of the meeting, and all necessary information and materials shall be sent to directors at least seven days prior to the Board meeting.

Agenda

151. The Company Secretary shall draft the meeting agenda in consultation with the CEO and the Chairperson of the Board.
152. Each Board member has the right to request an item be placed on the meeting agenda. Such requests should be provided to the Chairperson at least five days prior to the meeting.

Decision making

153. The Board directors shall try to unanimously adopt the resolutions. When unanimous decisions cannot be reached, the dissenting opinion of the Board members should be encouraged and must be recorded in the minutes.

154. Where unanimity cannot be reached, all resolutions shall be adopted by a majority of votes by the directors present and voting at the meeting (either present in person or present by allowable remote means). Each Board director shall have the right to cast one vote.
155. In the event of a tie, the Chairperson of the Board shall have a casting or second vote.

Minutes

156. Minutes are a written legal record of the Board meeting and shall be an accurate reflection of the meeting activities and decisions. At a minimum, minutes shall include meeting location and date, names of attendees and absentees, principal points arising in the discussions and Board decisions.
157. Draft Board meeting minutes shall be prepared and circulated within 5 working days following each Board meeting.
158. The Board Directors shall provide comments and feedback within 5 working days upon circulation of the draft minutes. If no comments are received within the stipulated time, the minutes shall be considered as endorsed from a director.
159. The minutes shall be signed by CEO and the Chairperson within 15 working days from the conduct of the Board Meeting.

Confidentiality

160. All directors and other attendees at Board meetings or Board committee meetings are required to keep information presented to and at the meeting, whether written or oral, confidential and may only use and disclose this information in the proper discharge of their duties to the Company.

Annual General Meeting

161. State Enterprises shall hold the Annual General Meeting (AGM) each year in addition to any other meetings. The notice for AGM may be called not less than 21 day's notice in writing.
162. AGM may be called after giving shorter notice within seven days prior to the date of meeting, if the consent is accorded by at least two third of the shareholders of the Company.
163. The business to be transacted in an AGM of State Enterprise may be conducted in a Board meeting within the time frame prescribed above.
164. In every AGM, not less than one-third of the total directors shall retire by rotation.
165. All Shareholders shall have the right to propose agenda, participate and vote in the Annual General Meeting.
166. Every Annual General Meeting shall be convened on or before 30th April in case of listed companies and on or

before 31st March in case of State Enterprises for transacting the following business, among others:

- 166.1 considerations of audited accounts for the financial year ended 31st December of the previous year, auditor's report and directors' report;
- 166.2 declaration of dividend;
- 166.3 appointment and retirement of directors;
- 166.4 remuneration of the Chief Executive Officers and Board Directors;
- 166.5 appointment and remuneration of statutory auditors;
- 166.6 endorsement of payment of bonus to the employees based on the assessment of Annual Performance Compact of the company; and
- 166.7 any other business delivered by the shareholders within seven days prior to the date of the meeting.

Extraordinary General Meeting

- 167. The Board of directors may convene an Extraordinary General Meeting to transact any special business which may not wait till the Annual General Meeting is due to be held.
- 168. The Board of directors shall, on the requisition of shareholders holding not less than ten percent of the paid-up capital of the Company, forthwith proceed duly

to call an extraordinary General Meeting of the Company.

Conflict of Interest

169. Directors are required to take all reasonable steps to avoid actual, potential or perceived conflicts of interests.
170. Directors and senior managers are required to provide formal disclosure and notify the Board and the Company Secretary of any actual, potential or perceived conflict of interests as they may arise thereafter.
171. The Board shall develop procedures for directors to follow if an actual, potential or perceived conflict of interest should arise. The procedures shall include:
 - 171.1 disclosure to the Board of any conflict of interest;
 - 171.2 the taking of steps to resolve any conflict of interest; and
 - 171.3 withdrawal from any discussion or vote on the matter where there exist conflict of interest.

Annual Performance Evaluation of Board and CEO

172. The Board shall undertake annual evaluation of its performance as per the evaluation format prescribed by the Ministry of Finance.
173. The Board shall evaluate CEO's performance annually.
174. The Board and CEO's annual performance reports shall be submitted to Ministry of Finance for assessment.

Annual Performance Compact

175. The Board and the management of the Company shall undertake an Annual Performance Compact (APC). The compact shall include agreed annual targets including financial and non- financial performance.
176. Financial key performance indicators comprise amongst others Revenue/Income, Profit After Tax, Return on Equity, Return on Assets, Return on Investments, etc.
177. Non-financial key performance indicators comprise customer service, organizational management, corporate governance and government policy compliance.
178. The Ministry of Finance shall review the Annual Performance Compact between the Board and management of the State Enterprises under Ministry of Finance and set any additional targets if required.
179. Ministry of Finance and Druk Holding & Investments shall sign Annual Performance Compact by negotiating performance benchmarks including agreement on annual dividend payments.
180. DHI shall submit periodic reports on its performance to the Ministry of Finance.
181. State Enterprises shall submit the Annual Performance Compact and its progress reports as prescribed in *Schedule II* of these Guidelines.
182. Ministry of Finance shall review and monitor

performances of State Enterprises from time to time.

Review

183. The Ministry of Finance in consultation with relevant stakeholders shall review and assess the adequacy of the CG Guidelines and make any revisions as required.

Definitions

In these Guidelines, the following terms shall have the meanings indicated, unless the context indicates otherwise:

“Annual Report” means a yearly report of financial and non-financial performance together with the financial statements and Corporate Governance Report.

“Board of Directors” or **“Board”** in relation to a Company means directors collectively acting as the Board of Directors of the Company.

“Chairperson” means a director of the Company elected amongst the Board Director as Chairperson of the Board and General Meetings of shareholders.

“Chief Executive Officer” means a full-time manager, appointed by the Board with the approval of the Company in General Meeting to manage the day to day affairs of the Company or as otherwise determined by the Board, or Articles or shareholders in General Meeting.

“Company” means a Company incorporated under Companies Act of Bhutan, any other legislative provision of the Kingdom of Bhutan or by Royal Charter and which is

included in the register of companies maintained under the Companies Act of Bhutan.

“Comply or explain” means that a State Enterprises shall comply explicitly with the provisions of these Guidelines. In case of non-compliance, the State Enterprises shall give an explanation for not complying with the Guidelines and justify how the intention of the particular provision of the Guidelines is achieved by other stated means.

“Confidential information” is all non-public information entrusted to or obtained by the director or senior manager by reason of his position in the Company and includes, but is not limited to, information or Company documents that may be of use to competitors or may be harmful to the Company if disclosed.

“Financial Institutions” as defined in the Financial Services Act of Bhutan.

“Government” means the Royal Government of Bhutan. For the purpose of these Guidelines, Lhengye Zhungtshog is interchangeably used as the ‘government’.

“Independent director” as defined in the Companies Act of Bhutan.

“Minority Shareholder” means those shareholders who are not substantial shareholders and does not exert control over a Company.

“Portfolio companies” means companies in which government has shares.

“Regulatory Authority” means an autonomous Authority established under the Companies Act of Bhutan.

“Senior managers” shall mean all Company personnel who are General Manager or equivalent and above.

“Shareholder” as defined in the Companies Act of Bhutan.

“Stakeholders” means any person who has an interest in the Company, such as the government, shareholders, employees, creditors, clients, customers, suppliers, the local and national communities, and the working and natural environments of the Company.

“State Enterprise” means a body incorporated under the Companies Act of the Kingdom of Bhutan, 2000 or as amended from time to time or established under any other Act and in which the Government or a state enterprise owns more than fifty percent of the issued share capital.

“Statement of Corporate Intent” means a statement of how the Board and the Company expect to fulfill the policy objectives and expectations expressed by the state.

Schedule I: Code of Conduct (for Board Directors and Senior Managers)

1. Purpose

- i. The Code of Conduct (Code) is intended to govern the conduct of directors and senior managers of the Company and ensure that they always apply a consistent and high standard of ethical conduct, especially with respect to possible conflicts of interest.
- ii. The Code is designed to promote and maintain confidence and trust in the Board and the Company's senior managers.
- iii. The provisions of the Code shall complement and enhance the requirements that arise in law and in the by-laws of the Company.

2. Ethical Standards and Guidelines

- i. Board directors and senior managers of the State Enterprises shall set the 'tone at the top' and create a corporate culture that promotes ethical conduct of companies and their employees.
- ii. State Enterprises must be properly managed in the interests of the ultimate owners – the people of Bhutan.
- iii. The conduct or the perceived conduct of Board members and senior managers of the Company shall

adhere to the highest ethical and moral standards as expected by the public.

- iv. The provisions of the Code shall complement and enhance the requirements that arise from laws and the by-laws of the Company.
- v. The Code shall also apply to all directors, senior managers and employees of the Company.
- vi. The general principles underlying the Code, explained below, shall apply to all Board members and senior managers of the Company, collectively and individually.

3. Company's Responsibilities

- i. The Company shall comply with the Code of Conduct for the governance of companies which shall promote those conditions that will enable the pursuit of Gross National Happiness.
- ii. Directors and senior managers of the Company shall be loyal to the shareholders, the Company and to the Board and be fully committed to all of the Company's business activities.
- iii. They shall respect their fellow directors and senior managers and treat them with courtesy.
- iv. In dealings with stakeholders, they shall have the responsibility to maintain the reputation of the

Company and treat all stakeholders in a helpful and courteous manner.

- v. They shall be fair, equitable and objective in the treatment of all stakeholders including members of the community.
- vi. They shall respect, protect and preserve the privacy of customer information, where ever applicable.
- vii. The Board of directors shall adopt and approve the Code for all directors and senior managers of the Company.
- viii. Each director and senior manager of the Company has a duty to abide by and report any instance or suspected breach of the Code, including any suspected theft or misuse of Company assets.
- ix. The Company shall ensure creating a workplace that values and respects people from diverse backgrounds and enable each of them to do their best.
- x. There shall not be any kind of unlawful discrimination or harassment in the workplace based on the personal characteristics. Personal characteristics includes a person's race, color, religion, sex, sexual orientation, age, marital status, national origin, citizenship, disability, veteran status, or any other classification protected by law in the country.

- xi. The Company shall be committed to maintaining a healthy and safe workplace.
- xii. As part of commitment to providing a safe workplace, Company shall not tolerate substance abuse.
- xiii. Companies shall ensure that there is effective internal control system, ethics and compliance measures in place to prevent & detect corruption.
- xiv. Companies shall prohibit bribe; improper sponsorships and inappropriate charitable contributions; improper gift and hospitality expenses.
- xv. Companies shall not support any political donations in cash or in kind to any political party or group.
- xvi. Donations and contributions towards Corporate Social Responsibility (CSR) shall be as per the CSR Guidelines issued by Ministry of Finance from time to time.

4. Commitment to Code of Conduct

- i. Directors and senior managers of the Company shall ensure the commitment and compliance to this Code.
- ii. Directors and senior managers of the Company shall acknowledge the duty of all to conform to the highest standards of business ethics.
- iii. The ethical commitment shall be based on the corporate values and principles of the Company.

5. Use of Information and its Confidentiality

- i. Conforming to fiduciary duties of care and loyalty to the Company and its shareholders, all directors and senior managers shall maintain the confidentiality of all non-public information obtained in the course of their activities.
- ii. Directors and senior managers shall not make promises or commitments they know the Company would not intend or would be unable to honor.
- iii. They shall not use the name of the Company to process any personal or business transaction.
- iv. Directors and senior managers of the Company shall ensure information accessed in the course of their duties is used only for proper purposes and in an approved manner.

6. Use and Protection of Company Assets

- i. The Company resources and assets, including equipment, inventory, supplies, intellectual property etc., shall be used efficiently and only for legitimate purposes of the Company business.
- ii. Any unauthorized removal, copying or destruction of Company assets, including software, tapes, books, etc. shall be considered as misuse of Company assets.

- iii. The use of Company paid employees or contractors for personal use shall be considered as misuse of Company assets and therefore, should be avoided.
- iv. Any act by a director or senior manager, for him/herself or for another, that involves theft, fraud, embezzlement or misappropriation of any property is prohibited. If known, it must be reported and investigated.

7. Conflict of Interest

- i. Directors and senior managers shall avoid any relationship or activity that might create (or give the appearance of creating) a conflict between their personal interests and the interests of the Company.
- ii. If a conflict of interest situation arises, they shall disclose it to the Board or to the governance committee.
- iii. When a perceived or actual conflict of interest arises, a director or senior manager shall withdraw from the Board or other deliberations and ensure recording actions taken on declared conflicts in minutes of the meeting.

8. Gifts and Entertainment

- i. A director or senior manager shall not accept or offer any improper payment or benefit in connection with his role at the Company.

- ii. They must not obtain or seek to obtain personal advantage from any person or entity dealing with the Company.
- iii. Gifts and entertainment given and received with the intention of unduly influencing business decisions are a form of bribery and shall be prohibited.
- iv. A director or senior manager shall not solicit or accept any gifts or inducements where the value of such could make it appear the person giving the gift is attempting to influence them to gain advantage or to create a sense of obligation.
- v. Directors and senior managers of the Company shall not seek to improperly influence others or official decisions by providing gifts or favors.
- vi. The Board shall issue policies in relation to accepting, declaring and/or recording the receipt of gifts or benefits.

9. Breaches of the Code, Reporting and Disciplinary Action

- i. The application of the Code relies on the commitment of directors and senior managers of the Company to uphold the principles and guidance within the Code.
- ii. Directors and senior managers of the Company shall report any suspicious activities or practices to the Board.

- iii. All reported issues shall be treated confidentially to the extent possible, consistent with the directors' and senior managers' responsibility to address the issue concerned.
- iv. No individual shall be subject to retaliation or intimidation for reporting suspicious activity in good faith.
- v. Breaches of the Code shall be dealt with disciplinary action appropriate to the issue.
- vi. Breaches of the Code may also result in civil or criminal actions in accordance with the laws of the land.
- vii. Any waiver of the provisions of the Code may be made and/or approved only by the Board.
- viii. The waiver and the reasons of granting waiver shall be promptly disclosed to the shareholders and relevant regulators if required by law.

Schedule II: Monitoring and Reporting Framework

State Enterprises shall submit financial & non-financial performance reports to Ministry of Finance (MoF) as prescribed in the table below:

Table I: Timeline for submission of reports to MoF

Report Type	Deliverables	Due Date
Budget	State Enterprises with government budgetary support, will submit estimates with write-ups.	31 st January
Annual Report	Submit Annual Report including audited financial statements for the year	First week of April
	Update Annual Report on website.	One month after AGM
1 st Quarterly Report [Jan-Mar]	Submit financial report for the period	30 th April
2 nd Quarterly Report [Jan-Jun]	Submit half-yearly financial and non-financial report	31 st July
3 rd Quarterly Report [Jan-Sept]	Submit financial report for the period	31 st October
4 th Quarterly Report	Submit provisional financial statements for	End of

[Jan-Dec]	the year	February
Draft Annual Performance Compact (APC) of SEs for review	Submit draft APC	30 th November
Half-Yearly Progress Report of APC	Submit half- yearly progress report	First week of August
Annual Progress Report of APC	Submit annual progress report	31 st March
DHI-MoF Annual Performance Compact	Submit draft APC	End of February
Half- Yearly Progress Report of DHI-MoF APC	Submit half-yearly progress report	31 st August
Annual Progress Report of DHI-MoF APC	Submit annual progress report	31 st May

Schedule III: Characteristics of Lack of Independence as a Director

A Board Director shall not be considered to be independent if he/she:

- (a) Has been an employee of the Company or group within the last one year;
- (b) Has, or has had within the last three years, a material business relationship with the Company either directly, or as a partner, shareholder, director or senior employee of a body corporate that has such a relationship with the Company;
- (c) Has received or receives additional remuneration from the Company apart from a director's fee, participates in the Company's share option or a performance-related pay scheme, or is a shareholder of the Company's pension scheme;
- (d) Has close family ties with any of the Company's advisers, directors or senior employees;
- (e) Holds cross-directorships or has significant links with other directors through involvement in other companies or bodies;
- (f) Represents a shareholder;
- (g) Holds securities of that Company;
- (h) Is affiliated with a significant customer or supplier of the Company or its related parties for the past five years;

- (i) Has personal service contracts with the Company, its related parties, or its senior management;
- (j) Is affiliated with a non-profit organization that receives significant funding from the Company or its related parties;
- (k) Is employed as an executive of another Company where any of the Company's executives serve on that Company's Board of directors; or
- (l) Has served on the Board for more than one term.

Schedule IV: The Board Audit Committee

1. Purpose

- i. These Guidelines will serve as guidance for the establishment and working of an Audit Committee of the Board.
- ii. The Board of each Company should define precisely its own particular audit committee needs, according to the size, complexity and risk profile of the Company.
- iii. The Board shall assume the responsibility for audit committee activities described in this charter in case of smaller companies who may choose not to establish a separate Audit Committee.
- iv. In case of any inconsistencies between these Guidelines and the Royal Audit Authority Act, Rules and Regulations, the latter shall prevail.

2. Authority

- i. The Board authorizes the Audit Committee, within the scope of its duties and responsibilities to exercise its powers in a manner it deems appropriate, including to:
 - (a) investigate any activity;
 - (b) request and obtain any information from management, employees, or from external parties as the committee deems advisable;
 - (c) establish procedures for receiving and dealing with concerns of interested parties;

- (d) make recommendations to the Board on issues related to policies, procedures and oversight systems;
 - (e) obtain external legal and professional expert advice as necessary; and
 - (f) ensure the attendance and co-operation of Company employees / officers at meetings as appropriate.
- ii. The Audit Committee functions in an oversight and review role and will make recommendations for Board decision / approval when required.

3. Membership

- i. An Audit Committee shall comprise of two or three Board members depending on the nature and scope of the organizations. The Head of Internal Audit unit /department shall be the Member Secretary of the Board Audit Committee.
- ii. The Chairperson of the Board and the CEO shall not be a member of the Audit Committee.
- iii. The committee shall consist of not less than two financially literate non-executive director of the Board.
- iv. The Chairperson of the Audit Committee shall be an independent non-executive director and should be financially literate.

- v. Audit Committee members shall not simultaneously serve on the Audit Committee of more than two other State Enterprises.
- vi. To be ‘financially literate’, members of the Audit Committee are not required to be financial, accounting or auditing professionals but they should have knowledge of accounting and auditing standards and practices. The goal is that all members of the Audit Committee shall be financially literate and always act in an impartial, objective and independent manner.

4. Responsibilities

The Audit Committee shall carry out the following responsibilities:

Company reporting (including financial statements and compliance)

- i. Review financial reports, including quarterly, half-yearly and annual financial statements before the financial statements are submitted to the Board;
- ii. Consider and advise the Board on whether the annual report is fair, balanced, and understandable and provides users with the information necessary for their assessment of the Company’s performance, business model and strategy;
- iii. Consider whether all interim, ad hoc reporting and half-year and annual financial statements are complete, consistent with information known to committee members

and with information in other sections of the annual or half-yearly reports or other Company reports generally, reflect applicable accounting standards and comply with laws and regulations;

- iv. Ensure all reported financial information include a review of:
 - (a) Critical accounting policies and practices, any changes in them and compliance with accounting standards prescribed by Accounting and Auditing Standards Board of Bhutan;
 - (b) Management decisions requiring significant elements of estimates and judgment;
 - (c) The extent to which financial statements are affected by unusual transactions during the period and how they are disclosed;
 - (d) Clarity and fullness of disclosures, including in the notes to financial statements;
 - (e) Significant adjustments resulting from the external audit and any unresolved issues arising from the external audit; and
 - (f) All legal and regulatory requirements to ensure compliance.

Internal Controls and Risk Management Systems

- i. Consider the effectiveness of the Company's internal control system and of contingency plans for systems

breakdown and recovery and for protection of assets against fraud and misuse.

- ii. Understand the scope of the internal and external auditor's review of internal controls, significant findings and recommendations together with management's responses.
- iii. Evaluate the risk oversight framework and system, and assess if the Board and senior management are setting the appropriate risk and control culture in the Company, relevant for the Company's business operations, that key risks are being identified and appropriately managed and, where necessary, reported to the Board.
- iv. Review arrangements for the receipt, retention and treatment of complaints by the Company, provided in confidence and in writing, in relation to concerns about possible improprieties in financial reporting or other matters.

Internal Audit

The Audit Committee shall:

- i. Be direct reporting line for the internal auditor and the internal audit function;
- ii. Monitor and review the effectiveness of the internal audit function;
- iii. Recommend the appointment and, if appropriate, the termination of the internal auditor;

- iv. Review, assess and recommend Board approval of the internal audit work plans;
- v. Receive reports on the internal auditor's work on a periodic basis, review significant internal audit findings and recommendations, together with management's responses and action taken; and
- vi. Review the performance, career advancement, training and compensation, of the internal audit unit.

External Audit

The Audit Committee shall:

- i. Oversee the Company's relations with the external auditor;
- ii. Within the requirements of the Company's Act and Royal Audit Authority, interact with relevant persons and shareholders on the appointment, reappointment, and removal of the external auditors;
- iii. Assess and report to the Board on the external auditor's qualification, expertise, resources, independence and performance;
- iv. Meet with the external auditor to review the scope and planning for the audit and the audit quality control procedures and on any issues arising in the course of the audit;

- v. Discuss with the external auditor any related party transactions the auditor may bring to the audit committee's attention;
- vi. Meet with the external auditor to receive audit findings and recommendations for management regarding any deficiencies;
- vii. Monitor management to see that significant audit findings are acted on in a timely manner; and
- viii. Monitor any non-audit services provided to the Company by the external auditor to ensure these services do not compromise the quality or independence of the audit and auditor respectively.

Royal Audit Authority

- i. The Auditor General of Bhutan shall be the ex-officio auditor. The auditor or joint auditors shall be appointed or re-appointed by the Royal Audit Authority who may designate its own auditors to conduct the audit.
- ii. The Royal Audit Authority shall have power to:
 - (a) to direct the manner in which the Company's accounts shall be audited by the auditor so appointed;
 - (b) to fix remuneration and other expenses of auditors;
 - (c) to remove the auditor appointed by it before the expiry of his term; and
 - (d) to issue Minimum Audit Examination Requirement wherever necessary to be complied by the auditors in

addition to Auditing Standards prescribed by the Accounting and Auditing Standards Board of Bhutan.

5. Meetings

- i. The audit committee Chairperson shall decide the frequency and timing of its meetings. There should be as many meetings as the roles and responsibilities of the committee demands.
- ii. There should not be less than four meetings in any one-year. Meetings should be organized in alignment with the annual cycle of financial reporting and auditing activities.
- iii. All audit committee members duly appointed by the Board should attend each meeting. Other non-committee persons may be requested to attend parts of audit committee meetings for specific agenda items.
- iv. The external auditor and the internal auditor shall be invited to attend audit committee meetings. The external auditor shall attend the meeting at least once a year to communicate the external audit findings to the committee before the Annual General Meeting.
- v. The secretary shall take minutes of all meetings and keep committee records, minutes, and papers. Copies of the minutes shall be made available to all Board members after the audit committee members have approved the minutes.

- vi. The Chairperson of the audit committee shall report on audit committee activities to the Board at the next Board meeting after the audit committee meeting, or earlier to the Chairperson of the Board, if necessary.

6. Review

The Audit Committee shall also review its Terms of Reference (ToR) and provide to the Board any recommendations for changes in the ToR or in any other Company policies and procedures.

Revision History

Version	Name of Document	Date of Commencement	Changes
1	Guidelines for Boards of Government Corporations and for Government - Appointed Board Directors	1 st July, 2004	Initial release
2	Corporate Governance Guidelines for State Enterprises 2019	1 st January, 2019	1 st Revision



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