

Corporations Act 2001

**CONSTITUTION**

**OF**

**QUEENSLAND MULTIMODAL FREIGHT COUNCIL LIMITED**

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QUEENSLAND MULTIMODAL FREIGHT COUNCIL LIMITED  
(FORMERLY SEA FREIGHT COUNCIL OF QUEENSLAND LIMITED)

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Corporations Act 2001

**COMPANY LIMITED BY GUARANTEE**

**CONSTITUTION**

**OF**

**QUEENSLAND MULTIMODAL FREIGHT COUNCIL LIMITED  
(FORMERLY SEA FREIGHT COUNCIL OF QUEENSLAND LIMITED)**

**1. OBJECTS**

- 1.1 The object of the company is to act as a forum for the promotion of the transport and logistic industries of Queensland; to raise and address issues to improve the flexibility, accessibility and efficiency of transport and logistics infrastructure involved in the movement of freight in Queensland. The company will focus on the logistics chain encompassing producers/manufacturers, air, road, rail and sea transport, freight forwarders and importers, warehousing and distribution, port authorities, stevedoring and shipping lines, airports, freight forwarders and custom brokers.
- 1.2 The company will achieve its objectives through:
  - 1.2.1 identifying constraints on the achievement of adequate, reliable and competitive freight movements, and where appropriate implementing, practical measures to overcome these constraints for the benefit of the Queensland freight industry and its users;
  - 1.2.2 identifying and targeting markets/opportunities to increase utilisation of existing freight capacities and to encourage freight consolidation/distribution through Queensland;
  - 1.2.3 facilitating the adoption of systems, procedures and technology to ensure coordination of all cargo consignments amongst shippers, freight forwarders, carriers and consolidation/distribution centres;
  - 1.2.4 attracting additional logistics-related services and facilities to complement and enhance existing facilities and services;
  - 1.2.5 monitoring and assessing the effects of various trends within Australia and world-wide on freight movements through Queensland, and on Queensland industry;

- 1.2.6 collecting and disseminating data/information to assist in industry cooperation, future capacity planning and negotiations; and
  - 1.2.7 working with industry and government to promote Queensland industry and remove impediments to international trade.
  - 1.2.8 conduct in-depth research projects for the benefit of the industry.
  - 1.2.9 to act as an advocate for reform on behalf of its members in all relevant public and industry forums.
- 1.3 The performance of the company is to be measured on the basis of the identifiable and measurable economic or commercial benefits it achieves for the freight industry and its users. The Board is to develop appropriate performance measures.
- 1.4 The company will be a statewide, strategic level body that addresses issues of state and national interest and concern. The company will assist its members by the provision of reports, guidelines and advice on relevant issues to the freight industry.

## 2. **RESTRICTIONS AND PROHIBITIONS**

### 2.1 **Application of Income:**

The income and property of the company, wherever derived from, shall be applied solely towards the promotion of the objects of the company and no portion thereof shall be paid or transferred, directly or indirectly by way of dividend, bonus or otherwise, to the members of the company.

PROVIDED THAT nothing herein contained shall prevent the payment in good faith of remuneration to any officers or servants or to any member of the company in return for services actually rendered to the company or for goods supplied in the ordinary and usual way of business nor prevent the payment of interest at a rate not exceeding the rate for the time being fixed for the purpose of this paragraph by this Constitution on money borrowed from any members of the company or reasonable and proper rent for premises demised or let by any member to the company.

### 2.2 **Contribution of Property by Members:**

Every member of the company undertakes to contribute to the property of the company in the event of the same being wound up while he is a member, or within one year after he ceases to be a member, for payment of the debts and liabilities of the company (contracted before he ceases to be a member) and of the costs, charges and expenses of winding and for the

adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding \$20.00.

**2.3 Distribution on Winding Up or Dissolution:**

If upon winding up or dissolution of the company there remains, after satisfaction of all its debts and liabilities, any property whatsoever the same shall not be paid to or distributed among the members of the company, but shall be given or transferred to some other institution or institutions having objects similar to the objects of the company and the Constitution of which prohibits the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the company under or by virtue of clause 2.1, such institution or institutions to be determined by members of the company at or before the time of dissolution and in default thereof by application to the Supreme Court for determination.

**2.4 Accounts:**

True accounts shall be kept of all the sums of money received and expended by the company and the matter in respect of which receipt and expenditure takes place and of the property, credits the liabilities of the company and subject to any reasonable restrictions as to the time and manner if inspecting the same that may be imposed in accordance with this Constitution for the time being in force shall be open to the inspection of the members. Once at least in every year, the accounts of the company shall be examined by one or more properly qualified auditor or auditors who shall report to the members in accordance with the provisions of the Law.

**2.5 Equality of Members:**

A person shall not be entitled to any benefit or advantage from the company which is not shared equally by every member thereof.

**3. MEMBERSHIP**

**3.1 Members:**

The subscribers to the Constitution and such other persons as the directors shall admit to membership in accordance with this Constitution shall be members of the company.

**3.2 Application for Membership:**

Every application for membership of the company (other than the subscribers to this Constitution) shall be made in writing, signed by the applicant and shall be in such form as the directors from time to time

prescribe. Every application for membership shall be forwarded to the secretary of the company together with payment of any entrance fee and annual subscription set by the Directors.

**3.3 Proposals for Membership:**

All proposals for membership of the company which have been duly made shall be dealt with and determined by the directors at a meeting or meetings duly convened. If the directors reject any such application the application shall (unless withdrawn by the applicant) be referred to the next general meeting of members, which shall consider and decide the application. The secretary of the company shall keep a record of applicants for membership and whether they are accepted as members or not.

**3.4 Acceptance as a Member:**

When an applicant has been accepted for membership the secretary shall forthwith send to the applicant written notice of his acceptance. The applicant shall become a member of the company from the date of the meeting at which his or her application was accepted.

**3.5 Rejection or withdrawal of an Application**

The secretary must notify an applicant of a rejection of his or her application. Upon rejection by the general meeting or upon receipt of notice of the withdrawal of an application the secretary must refund any entrance fee and annual subscription paid to the applicant.

3.6 All current members of the Sea Freight Council of Queensland Ltd shall be accepted for membership of the company.

**4. CESSATION OF MEMBERSHIP**

**4.1 Resignation:**

A member may at any time by giving notice in writing to the secretary resign his membership of the company but shall continue to be liable for any monies due by him to the company and in addition for any sum not exceeding \$20.00 for which he is liable as a member of the company under clause 2.2 of this Constitution of the company.

**4.2 Non-payment of annual subscription:**

If a member fails to pay the annual subscription set by the directors from time to time within 6 months of it becoming due and payable and notwithstanding not less than two notices requiring payment, then the member will be deemed to have resigned his membership, effective upon noting of the circumstances by the secretary in the register of members. A former member shall nevertheless continue to be liable for any monies due

by him to the company and in addition for any sum not exceeding \$20.00 for which he is liable as a member of the company under clause 2.2 of this Constitution.

**4.3 Non-compliance with this Constitution:**

If any member shall wilfully refuse or neglect to comply with the provisions of this Constitution or shall be guilty of any conduct which in the opinion of the directors is unbecoming of a member or prejudicial to the interest of the company the directors shall have power by resolution to censure, fine, suspend or expel the member from the company.

PROVIDED THAT at least one (1) week before the meeting of the directors at which such a resolution is passed the member shall have had notice of such meeting and of what is alleged against him and of the intended resolution and that he shall at such meeting and before the passing of such resolution have had an opportunity of giving orally or in writing any explanation or defence he may think fit and PROVIDED FURTHER THAT any such member may by notice in writing lodged with the secretary at least twenty-four (24) hours before the time for holding the meeting at which the resolution is to be considered by the directors, elect to have the question dealt with by the company in general meeting and in that event an extraordinary general meeting of the company shall be called for the purpose and if at the meeting such a resolution is passed by a majority of two thirds of those present and voting (such vote to be taken by ballot) the member concerned shall be punished accordingly and in the case of a resolution for his expulsion the member shall be expelled.

**4.4 Death Bankruptcy or Insolvency:**

Upon the death, bankruptcy of, or entry into liquidation or provisional liquidation by a member, the member will be deemed to have resigned from the company effective from the date of the death, entry into bankruptcy, liquidation or provisional liquidation.

**5. DIRECTORS POWERS**

**5.1 General:**

Subject to the Corporations Act 2001 and to any other provision of this Constitution the business of the company is managed by the directors, who may exercise all such powers of the company as are not, by the Corporations Act 2001 or by this Constitution required to be exercised by the company in general meeting.

**5.2 Directors may exercise borrowing powers:**

The directors, by resolution of a duly convened meeting of the Board, may from time to time at their discretion raise, borrow or secure the payment of any sums of money for the purposes of the company and generally exercise all the powers of borrowing and raising money which belong to the company.

**5.3 Directors may secure repayment of moneys raised:**

The directors, by resolution of a duly convened meeting of the Board, may raise or secure the repayment of moneys in the manner and on the terms and conditions as they see fit and in particular they may issue debentures or debenture stock, bonds, notes or other obligations of the company at any time and in any form or manner and for any amount and may raise or borrow any sums of money, either upon mortgage or charged or not charged on all or any part of the property and rights of the company, both present and future, including upon bills of exchange, bills of sale, promissory notes or other obligations as they think fit and they may cause or permit any such mortgages, charges, bonds, debentures or obligations to be redeemed or transferred as they may think fit.

**5.4 Debentures may be made assignable free from equities:**

Debentures, debenture stock and other securities may be made assignable free from any equities between the company and the original or any intermediate holders.

**5.5 Debentures may be issued with special privileges:**

Any debenture, debenture stock, bonds or other securities may be issued at a discount premium or otherwise and with any special privilege as to redemption, surrender, drawings, issuing of shares, attending and voting at general meetings of the company, appointment of directors and otherwise as the directors, by resolution of a duly convened meeting of the Board, may determine.

**6. DIRECTORS MAY GUARANTEE OBLIGATIONS OF COMPANY**

The directors may, at their discretion give any guarantee or indemnity for the payment of money or the performance of any obligation or undertaking by the company and give any security whatsoever in support of any guarantee or indemnity or any joint or third party advance or liability or in connection with or in relation to any of the objects of the company and such contract, transaction or agreement containing the promise by the company to pay the money or perform the obligation or undertaking shall not be avoided because the directors have given such guarantee or indemnity.

**7. GENERAL MEETINGS OF MEMBERS**

**7.1 Annual general meetings:**

Annual general meetings are to be held in accordance with the Corporations Act 2001.

**7.2 Convening of general meeting:**

The directors may at any time resolve to convene a general meeting.

**7.3 Notice of Meeting:**

A notice of a general meeting shall specify the place, the day and the hour of meeting and shall state the general nature of the business to be transacted at the meeting except it is not necessary for a notice of an annual general meeting to state that the business to be transacted at the meeting includes the consideration of accounts and the reports of the directors and auditors, the election of directors in the place of those retiring or the appointment and fixing of the remuneration of the auditors.

**7.4 Time for notice of meeting:**

Apart from meetings involving special resolutions, not less than fourteen days notice specifying the time and place of meetings shall be given to all persons who are entitled to vote at the meeting.

**7.5 Notice in respect of special resolution:**

Not less than twenty-one days notice shall be given of meetings at which special resolutions are proposed. Such notice shall in other respects be in accordance with the last preceding clause.

**7.6 Requisitioned meeting:**

7.6.1 The directors must upon the written requisition of not less than 10% of the total number of members, convene a general meeting of the company to be held as soon as practicable but in any case not more than 2 months after the deposit of the requisition.

7.6.2 The notice of requisition must state the objects of the meeting and must be signed by the requisitionists and lodged in the registered office of the company. Several documents in like form each signed by one or more requisitionists may together constitute the requisition.

**8. PROCEDURE AT GENERAL MEETINGS**

**8.1 No business without quorum:**

No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business.

**8.2 Proxies and corporate representatives**

For the purpose of determining whether a quorum is present, a person attending as a proxy, or as representing a corporation that is a member, shall be deemed to be a member.

**8.3 Quorum:**

The number of members present, personally or by proxy shall be a minimum of 8 and will be regarded as a quorum for a general meeting.

**8.4 Procedure if no quorum present:**

If a quorum is not present within half an hour from the time appointed for the meeting:

8.4.1 where the meeting was convened upon the requisition of its members, the meeting shall be dissolved;

8.4.2 in any other case the meeting stands adjourned to such day and at such time and place as the directors determine or, if no determination is made by the directors, to the same day in the next week and at the same time and place.

**8.5 Chairman:**

If the directors have elected one of their number as chairman of their meetings, he shall preside as chairman at every general meeting. The chairman is responsible for the general conduct of a general meeting.

**8.6 Procedure if no chairman:**

Where a general meeting is held, and:

8.6.1 a chairman has not been elected as provided by clause 8.5 above;  
or

8.6.2 a chairman has been elected as provided by clause 8.5 above and is present but is unwilling to act; or

8.6.3 the chairman is not present within fifteen minutes after the time appointed for the holding of the meeting;

the members present shall elect:

8.6.4 another director as chairman; but if no director is present or if all directors present decline to take the chair,

8.6.5 one of their number to be chairman of the meeting.

**8.7 Adjourning of meetings:**

The chairman may with the consent of any meeting at which a quorum is present, and shall if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

8.7.1 When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.

8.7.2 Except as provided by clause 8.7.1 above, it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

**8.8 Voting:**

At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded:

(a) by the chairman; or

(b) by at least three members present in person or by proxy.

Subject to the requirements of the Law in respect of special resolutions, a resolution is taken to be carried if approved by a simple majority.

**8.9 Declaration by chairman:**

Unless a poll is demanded, a declaration by the chairman that a resolution has on the show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the company, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

**8.10 Withdrawal of demand for poll:**

The demand for a poll may be withdrawn.

8.11 **Taking of poll:**

If a poll is to be demanded, it shall be taken in such manner and (subject to clause 8.8) at such time as the chairman directs, and the result of the poll shall be the resolution of the meeting at which the poll was demanded. However, a poll demanded on the election of a chairman or on the question of adjournment shall be taken forthwith.

8.12 **Effect of poll:**

The demand for a poll shall not prevent the continuance of a meeting or the transaction of any business other than the question on which a poll has been demanded.

8.13 **Casting vote of chairman:**

In the case of an equality of votes the chairman of the meeting shall have a casting vote in addition to his deliberative vote (if any).

8.14 **Signed resolution:**

Subject to the provisions of the Law, minutes of a resolution signed by all members of the company for the time being shall be as valid and as effectual as if it had been passed at a meeting of the members duly called and constituted and the members can sign separate copies of the resolution or documents circulated for that purpose.

8.15 **Minutes of resolution signed by chairman:**

Minutes of a resolution signed by the chairman of the meeting shall be sufficient evidence, in the absence of evidence to the contrary, that the meeting referred to in the minutes was duly called and constituted, and that the business stated in the minutes to have been dealt with and resolved at that meeting was dealt with or resolved as the case may be.

9. **VOTES OF MEMBERS**

9.1 **Every member entitled to a vote:**

Subject to any rights or restrictions attached to any class or classes of members:

9.1.1 at meetings of members or classes of members each member entitled to vote may vote in person or by proxy or attorney; and

9.1.2 on a show of hands every person present who is a member or a representative of a member has one vote, and on a poll every member present in person or by proxy or attorney has one vote.

9.2 **Objection to right to vote:**

An objection may be raised as to the qualification of a voter only at a meeting or adjourned meeting at which the vote objected to is given or tendered.

9.2.1 Any objection shall be referred to the chairman of the meeting whose decision is final.

9.2.2 A vote not disallowed pursuant to such an objection is valid for all purposes.

9.3 **Notes by proxies:**

On a poll votes may be given personally or by proxy, attorney or agent. A proxy need not be a member of the company.

9.4 **Appointment of proxy:**

Appointment of a proxy or agent by written letter, facsimile or other means to the satisfaction of the directors is sufficient. Where it is desired to afford members an opportunity of voting for or against a resolution the instrument of proxy may be endorsed as follows:

"This form is to be used in favour of/against the resolution".

9.5 **Notice of appointment to be deposited before meeting:**

The written letter, facsimile or other means satisfactory to the directors, appointing a proxy or agent and the power of attorney (if any) under which it is signed or proof thereof to the satisfaction of the directors shall be deposited at the registered office of the company before the time for the holding of the meeting or adjourned meeting at which the proxy or agent proposes to vote.

9.6 **Appointment of attorney:**

Any member may by power of attorney duly executed in the presence of one witness at least appoint any attorney:

9.6.1 to act on his behalf at all meetings of the company;

9.6.2 to exercise any or all of the voting powers conferred on the member by this Constitution in respect of any particular matter or matters specified in the instrument appointing the attorney and the power of attorney or proof thereof to the satisfaction of the directors shall be produced for inspection at the office of the company together with such evidence of the due execution of the power of attorney as the directors may require and such attorney may be authorised to appoint a proxy or agent for the member granting the power of attorney.

## 10. **DIRECTORS**

### 10.1 **Number of directors:**

Unless otherwise determined by a general meeting the number of directors shall not be less than 7 or more than 15.

### 10.2 **Qualification of directors:**

10.2.1 Each director, other than the director appointed under clause 10.1, must be a member, or an employee or officer of a member, unless the members, or, in the case of a director appointed under clause 10.6, the appointing directors, determine otherwise in respect of a particular director.

10.2.2 At least one director must reside outside Brisbane Metropolitan Area.

10.2.3 Unless otherwise determined by the members in a general meeting:

- (a) it is desirable that the directors of the company represent the broad range of sectional interests of those bodies representing the mode of transport methods identified in clause 1.1 of this constitution.
- (b) any director may represent one or more of the sectional interests referred to in clause 1.1 of this constitution.

### 10.3 **First directors:**

The number of the directors and the names of the first directors shall be decided in writing by the subscribers to this Constitution.

**10.4 Remuneration of directors:**

The remuneration of the directors shall from time to time be determined by the company in general meeting.

10.4.1 That remuneration shall be deemed to accrue from day to day.

10.4.2 The directors may also be paid all travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the directors or general meetings of the company or in connection with the business of the company.

**10.5 Remuneration for extra services:**

If any director being willing shall be called upon to perform extra services or to make any special exertions in going overseas or otherwise for any of the purposes of the company, the company may remunerate the director for so doing, either by fixed sum or otherwise as may be determined by the directors and such remuneration may be either in addition to or in substitution for his or their share in the remuneration above provided.

**10.6 Casual vacancies:**

The directors shall have power at any time to appoint any qualified person as a director either to fill a casual vacancy or as an addition to the Board but so that the total number of directors shall not at any time exceed the maximum number. Any director so appointed shall hold office only until the next following general meeting of the company and shall then be eligible for re-election.

**10.7 Below minimum number of directors:**

Should the number of directors fall below the minimum number at any time, the remaining directors shall be empowered to appoint one further director or the number necessary to make up the minimum number and shall not exercise any other power until the new Board meets.

**10.8 Continuing directors:**

Continuing directors may act notwithstanding any vacancy in the Board unless their number is reduced below the fixed minimum number.

**10.9 Vacation of office of director:**

The office of a director shall become vacant if the director:

10.9.1 ceases to be a director by virtue of the Law;

- 10.9.2 becomes bankrupt or makes any arrangement or composition with his creditors generally;
- 10.9.3 represents a member (in terms of clause 10.2), and the member ceases to be a member of the company;
- 10.9.4 becomes of unsound mind or becomes a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- 10.9.5 resigns his office by notice in writing to the company;
- 10.9.6 is absent without permission of the directors from more than three consecutive meetings of the directors; or
- 10.9.7 is directly or indirectly interested in any contract or proposed contract with the company and fails to declare the nature of his interest in the manner required by the Law and by this Constitution and the company in general meeting resolves to remove him.

**10.10 Election and appointment of directors:**

- 10.10.1 Subject to these clauses the term for which a director is elected or appointed is 2 years.
- 10.10.2 Those members nominating as a Director of the Queensland Multimodal Freight Council Limited Board be voted on by the members and if the numbers are deemed to be in excess of Clause 10.1, then a ballot will be held.
- 10.10.3 Subject to the other provisions of these clauses, at the second annual general meeting of the company one-half of the directors shall retire from office, the directors agreeing between themselves whom should retire, and in the absence of agreement, deciding by lots. At each subsequent annual general meeting one-half of the directors for the time being or if their number is not divisible by 2 then that number which is just less than one-half, shall retire from office. Those retiring must be those longest in office since their last election, and between directors elected on the same day shall be determined by lots, unless they agree amongst themselves.
- 10.10.4 A retiring director shall be eligible for re-election.

10.10.5 Those directors retiring at the annual general meeting shall however retain office until the conclusion of the meeting at which their successors are elected.

10.10.6 In the event that at an annual general meeting of the company no person is appointed to the office of director of the company and, those persons who were directors prior to that annual general meeting shall continue to hold office for the succeeding year, and shall be subject to retirement and re-election at the next annual general meeting.

10.11 **Removal of director by company:**

The company may at any time by ordinary resolution remove any director and, by ordinary resolution, appoint another in his place.

11. **PROCEEDINGS OF DIRECTORS**

11.1 **Meetings of directors:**

The directors may meet together for the dispatch of business and adjourn or otherwise regulate their meetings as they see fit. Minutes of those meetings shall be kept as required by law.

11.2 **Attendance by observers:**

The directors may invite such other persons as they determine to attend any or part of any meeting of the directors. Any such attendee may participate in discussions (unless required otherwise by the Chairman) but may not vote upon any resolution of the directors.

11.3 **Quorum:**

The quorum for a meeting of directors shall be one-half of the number of directors, or if the number of directors is not even, the whole number just in excess of half, unless determined otherwise by the members in a general meeting.

11.4 **Convening of meetings:**

The directors shall meet once every 3 months. In addition a director may at any time, and the secretary shall upon request of a director, convene a meeting of the directors.

11.5 **Meetings of directors:**

Shall be held at locations to be determined by the Chairman, provided that arrangements are made for all directors to attend. In determining the

location of meetings the Chairman must have regard to the benefit of holding meetings in regional Queensland.

**11.6 Voting at meetings:**

Subject to these clauses, resolutions shall be decided by a simple majority of votes and in the case of equality of votes the chairman shall have a casting vote in addition to his deliberative vote (if any).

**11.7 Appointment of chairman:**

The directors shall appoint a chairman of their meetings who shall hold that office, unless otherwise resolved, for 2 years. If no chairman is appointed or if at any meeting the chairman is not present within ten minutes after the time appointed for the holding of the meeting the directors present shall appoint an acting chairman of such meeting, who shall hold office until the chairman arrives or until the end of that meeting, whichever is the earlier.

**11.8 Conflict of interest:**

11.8.1 No director is disqualified by the director's office and the fiduciary relationship established by it from holding any office or place of profit (other than that of Auditor) under the company. Any director may (subject to the Corporations Act 2001):

- (a) be or become a director of or otherwise hold office or a place of profit in any other company promoted by the company or in which the company may be interested as vendor, shareholder or otherwise;
- (b) contract or make any arrangement with the company whether as vendor, purchaser, broker, solicitor or accountant or other professional person or otherwise and any contract or arrangement entered or to be entered into by or on behalf of the company in which any director is in any way interested is not avoided for that reason; and
- (c) participate in any association, institution, fund, trust or scheme for past or present employees or directors of the company, a related body corporate or any of their respective predecessors in business or their dependents or persons connected with them.

11.8.2 Any director who:

- (a) holds any office or place of profit under the company;
- (b) holds any office or place of profit referred to in clause 11.8.1(a);
- (c) is involved in a contract or arrangement referred to in clause 11.8.1(b); or
- (d) participates in an association or otherwise under clause 11.8.1(c),

is not by reason only of any of those facts or any interest resulting from it or the fiduciary relationship established by it liable to account to the company for any remuneration or other benefits accruing from it.

11.8.3 Each director must disclose that director's interests to the company in accordance with the Corporations Act 2001 and the Secretary must record any such declaration in the minutes of the relevant meeting.

11.8.4 No director may vote in respect of any contract or proposed contract or arrangement in which the director has directly or indirectly a material interest and if the director does so vote that vote may not be counted although the director may be counted in the quorum present at any director's meeting at which such contract, proposed contract or arrangement is considered.

11.8.5 The restrictions contained in clause 11.8.4 may at any time or times be suspended or relaxed to any extent and either prospectively or retrospectively by resolution of the company in general meeting.

11.8.6 A director or a director's firm may act in a professional capacity (other than as Auditor) for the company and a director or a director's firm is entitled to remuneration for professional services as if the relevant director was not a director.

11.8.7 A director may, notwithstanding the director's interest, and whether or not the director is entitled to vote, or does vote, participate in the execution of any instrument by or on behalf of the company and whether through signing or sealing the same or otherwise.

**11.9 Signed resolution of directors:**

Subject to the provisions of the Law, minutes of a resolution signed by all directors for the time being shall be as valid and effectual as if it had been passed at a meeting of the directors duly convened and constituted and the directors can sign separate copies of the resolution or document circulated for that purpose.

**11.10 Meetings defined:**

The directors may conduct meetings without the directors being in the physical presence of each other provided that all directors involved in the meeting are able to simultaneously hear each other and participate in the discussion.

**12. DIRECTORS COMMITTEES**

The Directors may delegate any of their powers, other than powers required by law to be dealt with by directors as a board, to a committee or committees consisting of at least one of their number and such other persons as they think fit.

12.1 A committee to which any powers have been so delegated must exercise the powers delegated in accordance with any directions of the Directors and a power so exercised is deemed to have been exercised by the Directors.

12.2 The members of such a committee may elect one of their number as chairman of their meetings. A committee may meet and adjourn as it thinks proper.

12.3 Questions arising at a meeting of a committee are to be determined by a majority of votes of the members involved and voting.

12.4 In the event of there being an equality of votes, the chairman, in addition to the chairman's deliberative vote, has a casting vote.

**13. VALIDITY OF ACTS**

All acts done by any meeting of the directors or of a director or by any person acting as a director are, notwithstanding that it is afterwards discovered that there was some defect in the appointment of the person to be a director or a member of the directors, or to act as a director, or that person so appointed was disqualified, is valid as if the person had been duly appointed and was qualified to be a director or to be a member of the directors.

**14. CHIEF EXECUTIVE OFFICER**

**14.1 Appointment of Chief Executive Officer:**

The directors may from time to time appoint a Chief Executive Officer for such period and on such terms and conditions, including such conditions as to remuneration, and with such of the powers as are exercisable by that person as they think fit and, subject to the terms of any agreement entered into in a particular case, they may revoke any such appointment.

14.1.1 Any powers so conferred may be concurrent with, or be to the exclusion of, the powers of the directors.

14.1.2 The directors may at any time withdraw or vary any powers so conferred on the Chief Executive Officer.

**15. ATTORNEYS**

**15.1 Appointment of attorneys:**

The directors may by power of attorney appoint any person to be the attorney of the company for such purposes and with such of the powers, authorities and discretions as are vested in the directors and subject to such conditions and for such period as they may think fit.

**15.2 Delegation by attorney:**

The power of attorney by the directors may also authorise the attorney to delegate all or any of the powers authorities and discretions so vested in him.

**16. SECRETARY**

**16.1 Appointment of Secretary:**

The director shall appoint a secretary or secretaries who shall carry out his or their duties subject to the provisions of the Law and this Constitution and who shall hold office on such terms and conditions as to remuneration and otherwise as the directors may determine. The Chief Executive Officer shall be appointed the Secretary.

**16.2 Minutes:**

The secretary must arrange for the taking of minutes of all general meetings of the company and all meetings of directors, recording the names of those present and the business transacted. The minutes must be signed by the Chairman of the meeting to which they relate. The secretary is entitled to attend all meetings for these purposes.

16.3 **Removal:**

The directors have power to suspend or remove a secretary.

17. **CHEQUES**

17.1 **Signing of cheques etc:**

All cheques, bills of exchange, drafts, promissory notes or other negotiable instruments orders for payment and receipts for money paid to the company shall be signed, accepted, drawn or endorsed or otherwise executed for and on behalf of the company by any two persons who must be a director, the secretary or such person as the directors have appointed for this purpose, or in such other manner as the directors may determine.

17.2 **Payment of moneys owed to company:**

All moneys belonging to the company shall be paid to such bankers as the directors shall from time to time in writing or by resolution appoint.

18. **THE SEAL**

18.1 **Keeping of seal:**

The directors shall provide and keep safely the common seal of the company and a duplicate common seal if they decide the same is necessary.

18.2 **Execution under seal:**

Every instrument to which the seal is affixed must be signed by at least one director and counter-signed by the secretary or another director.

18.3 **Appointment of alternates to sign:**

The directors may appoint another person or persons to apply the common seal of the company in lieu of those persons referred to in this clause.

18.4 **Interested director may affix seal:**

A director or secretary may attest the affixing of the common seal of the company on any contract or other document executed under the common seal of the company notwithstanding that the director or secretary is or was in any way, whether directly or indirectly, interested in that contract or other document or in the matter to which that contract or other document relates.

## 19. NOTICES

### 19.1 **General:**

A notice may be given by the company to any member either by serving it on him personally or by sending it by post to him at his address as shown in the register of members or the address supplied by him to the company for the giving of notices to him.

### 19.2 **Means of effecting service:**

Where a notice is sent by post service of the notice shall be deemed to be effected by properly addressing, prepaying, and posting a letter containing the notice, and to have been effected, in the case of a notice of a meeting, on the day after the date of its posting and, in any other case, at the time at which the letter would be delivered in the ordinary course of post.

Where a notice is sent by facsimile, email or other electronic means, service of the notice shall be deemed to be effected by properly addressing and sending a letter containing the notice, and to have been effected, in the case of a notice of a meeting, on the day of its transmission.

### 19.3 **Notice of General Meetings:**

Notice of every general meeting shall be given in the manner authorised by clauses 19.1 and 19.2 to:

- (a) every member;
- (b) every director; and
- (c) the auditor for the time being of the company.

No other person is entitled to receive notices of general meetings.

## 20. ACCOUNTS, RECORDS AND INSPECTION

### 20.1 **Directors to keep accounts:**

The directors must cause the company to keep accounts of the business of the company in accordance with the requirements of the Corporations Act 2001.

### 20.2 **Company to audit account:**

The directors must cause the accounts of the company to be audited in accordance with the requirements of the Corporations Act 2001).

**20.3 Inspection by Members:**

Except as otherwise required by the Corporations Act 2001, the directors may determine whether and to what extent, and at what time and places and under what conditions, the accounting records and other documents of the company or any of them will be open to the inspection of members other than directors, and a member other than a director does not have the right to inspect any document of the Company except as provided by law or authorised by the directors or by the company in general meeting.

**21. INDEMNITY**

21.1 To the extent permitted by law, the company shall indemnify every officer of the company against any liability incurred by that person:

- (a) in his or her capacity as an officer of the company; and
- (b) to a person other than the company or a related body corporate of the company;

unless the liability arises out of conduct on the part of the officer which involves a lack of good faith.

21.2 The company shall indemnify every officer of the company against any liability for costs and expenses incurred by the person in his or her capacity as an officer of the company:

- (a) in defending any proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or
- (b) in connection with an application, in relation to such proceedings, in which the Court grants relief to the person under the Corporations Act 2001.

21.3 The company may also pay a premium in respect of a contract insuring an officer who is or has been an officer against a liability incurred by the person in connection with his or her office, except in circumstances prohibited by the Corporations Act 2001.

21.4 In this clause 21 the word "officer" has the meaning given by section 241 of the Corporations Act 2001.

## 22. INTERPRETATION

22.1 In the interpretation of this Constitution or any alteration thereof or addition thereto the expressions defined in the Corporations Act 1989 or any statutory modification thereof shall have the meanings so defined and the following words and expressions shall have the several meanings hereby assigned to them unless such meanings are excluded by or are repugnant to the context or subject matter (that is to say):

"Act" shall mean the Corporations Act 2001 or any amendment or modification thereof for the time being in force.

"Constitution" means this Constitution and all supplementary substituted or amended Constitution for the time being in force.

"Board" shall mean a meeting of directors or the directors assembled as a Board as the case may be.

"Directors" shall mean the directors for the time being of the company or such number of them as have authority to act for the company.

"Law" has the same meaning as "Act".

"Letters" shall include circulars and post cards *or emails* (5.6.08).

"Member" means a person accepted for membership of the company and entered into the Register as a member of the company.

"Notices" shall include letters, facsimiles or emails and any other written communication from the company to its members.

"Office" shall mean the registered office for the time being of the company.

"Person" shall include a partnership association and corporation as well as an individual.

"the Property" shall mean the real and personal property of the company.

"Logistics Chain" means the processes by which goods are taken from the location of their manufacture or production to their destination by all modes of transport as identified in clause 1.1 of this constitution.

"Secretary" or "Manager" shall include any Acting Secretary or Acting Manager for the time being of the company.

"The Register" shall mean the register of Members to be kept pursuant to Section 216A of the Act.

"Seal" shall mean the Common Seal of the company and includes any official Seal of the company.

"Writing" and "written" shall include printing, lithography, photography, typewriting, facsimiles or emails and other modes of representing or reproducing words in visible form.

- 22.2 Except so far as the contrary intention appears in these regulations, an expression has, in a provision of these regulations that deals with a matter dealt with by a particular provision of the Law, the same meaning as in that provision of the Law.
- 22.3 Any headings or marginal notes to this Constitution are incorporated for ease of reference and shall not affect the construction hereof.
- 22.4 In every case where general expressions are used in connection with powers, discretions, or things such general expressions shall not be limited to or controlled by the particular powers, discretions, or things with which the same are connected. Any words and expressions denoting authority or permission shall be construed as words or expressions of authority merely and shall not be construed as words or expressions denoting directors or compulsory trusts.
- 22.5 Words importing any gender include all other genders, the singular includes the plural and vice versa. Where any word is given a defined meaning, any other part of speech or grammatical form in respect of that word has a corresponding meaning.

We, the people whose full names, addresses and occupations are subscribed wish to be formed into a company pursuant to this Constitution.

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<b>NAME AND ADDRESS OF SUBSCRIBER</b>	<b>OCCUPATION SUBSCRIBER</b>	<b>OF</b>	<b>SIGNATURES</b>
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Name: Solicitor .....

Address: Date:.....

Witness: .....

Address: ..... Date: .....

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Name: Solicitor .....

Address: Date:.....

Witness: .....

Address: ..... Date: .....

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## **Annexure “A”**

### **Examples of services in the Logistics Chain**

- Road Transport
- Air Transport
- Rail Transport
- Sea Transport
- Freight Forwarders
- Warehousing and Distribution
- Port Authority
- Stevedoring
- Shipping lines
- Importers/Exporters