

**BRITISH COLUMBIA
MARITIME EMPLOYERS
ASSOCIATION**

***Constitution
and By-Laws***

*Registered under the Society Act
of British Columbia*

**Vancouver, B.C.
2010**

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PROVINCE OF BRITISH COLUMBIA

SCHEDULE A

FORM 3

SOCIETY ACT

CONSTITUTION

ARTICLE 1.

The name of the Society is "BRITISH COLUMBIA MARITIME EMPLOYERS ASSOCIATION".

ARTICLE 2.

The purposes of the Society are:

(a) To consider and adopt methods of promoting sound labour relations and on behalf of its members and with any trade union, or trade unions, or representatives, to bargain collectively for, to enter into and carry out and administer collective agreements and other related undertakings and agreements containing provisions as to rates of pay, hours of work and other terms and conditions of employment of labour and on behalf of its members to negotiate the adjustment of disputes with any such trade union, trade unions or representatives.

(b) To maintain a bureau or bureaux in which a register or registers will be kept of all persons employed in or about any work whatsoever carried on in connection with the businesses of shipping, wharf operation, docking, lightering, stevedoring or cargo handling or other maritime and related businesses in the ports of the Pacific Coast of Canada.

(c) To promote and develop the trade and port facilities of the ports of the Pacific Coast of Canada, and to carry on operations in connection with, and cooperate with governing bodies and Municipal, Provincial and Federal authorities and other corporations, societies and organizations in the promotion and development of the said ports and the business carried on therein.

(d) To promote safety in the operations of waterfront workers and employees, the members of the Society, or the Society and to make and enforce regulations concerning the same, and to adopt, put into effect, operate and enforce modern methods, devices, rules, and regulations conducive to the attainment of safety in all operations directly or indirectly associated with the operations of the members of the Society or their employees, or those engaged in carrying on business with the members.

(e) To conduct training and retraining programmes for or with respect to all or any workmen, servants, employees or officers of the members of the Society engaged in or associated directly or indirectly in the operations carried on by the said members or any of them.

Subject to the provisions of the *Society Act* and the *Insurance Act*, to institute, maintain and administer on either a contributory or non-contributory basis, plans or schemes providing for pensions, annuities, group life insurance, group accident, welfare, medical and health insurance, vacation plans, retirement benefits, automation protection plans, and any other plan or scheme providing benefits for or with respect to all or any classes of workmen, servants, officers or employees engaged in and/or about work carried on or in connection with or directly or indirectly associated with or allied to the business of shipping, wharf

operation, docking, lightering, stevedoring or cargo handling or other maritime and related businesses in the ports of the Pacific Coast of Canada and for all or any of such purposes to charge such fees, assessments, or levies as the Directors may from time to time determine, and subject to the provisions of the *Society Act*, to enforce payment thereof, and to enter into agreements with persons, firms or corporations to provide for the institution, maintenance and administration of the aforesaid plans or schemes.

(f) To do all such things as are incidental or conducive to the attainment of the purposes and the exercise of the powers of the Society, and without limiting the generality of the foregoing, to conduct research, compile and distribute statistical and other information, and to take part either itself or in cooperation and jointly with others in considering and making representations with respect to legislation or regulations that may be issued by any duly constituted authority and to engage technical and professional assistance to enable the Society to take part in presentations or submissions at hearings before such authorities.

ARTICLE 3.

The operations of the Society are to be chiefly carried on in the Cities of Vancouver and New Westminster, in the Province of British Columbia and in various other ports in the said Province.

BY-LAWS

Here set forth, in numbered clauses, are the By-Laws providing for the matters referred to in Section 6(1) of the *Society Act* and any other By-Laws.

BY-LAW 1 MEMBERSHIP

(a) Membership in the Society shall be divided into classes and sub-classes, which are defined as follows:

(1) Ship Owners Class – shall mean owners, operators, charterers or agents of or for deep sea vessels (being vessels which in the course of their voyages cross a line drawn from Cape Flattery to Lat. 50°00'N, Long. 130°00' W, to Lat. 56°00' N, Long. 138°00' W, to Cape Spencer).

“(2) Direct Employers Class – shall mean owners or operators of wharves or shore based loading or discharging facilities, and includes the sub-classes set out below, provided that it shall be a condition of membership that all Direct Employers Class members actively employ foremen at all times. Any Direct Employers Class member admitted and in good standing as of March 31, 2010 shall continue to be eligible for membership notwithstanding that it may not own or operate wharves or shore based loading or discharging facilities or employ any foremen at that time, provided that if such member subsequently undertakes a material change in the scope or range of its operations, as may be determined by the Board of Directors in its sole discretion, then upon notice from the Board of Directors, such member may be required to submit a new application for membership and meet the then current membership requirements,

and if such member fails to meet such requirements it shall cease to be a member on the date specified by the Board of Directors. If any Direct Employers Class member whose membership is approved after March 31, 2010 subsequently undertakes a material change in the scope or range of its operations, as may be determined by the Board of Directors in its sole discretion, then upon notice from the Board of Directors, such member may be required to submit a new application for membership and to meet the then current membership requirements, and if such member fails to meet such requirements it shall cease to be a member on the date specified by the Board of Directors. The subclasses of the Direct Employers Class are as follows:

- (i) Bulk Terminal Operators – shall mean persons, firms and corporations directly connected with vessel loading or discharging and whose primary operation is the handling of bulk commodities.
- (ii) Container Terminal Operators – shall mean persons, firms and corporations carrying on the stevedoring business of loading and discharging containers to and from vessels.
- (iii) General Terminal (Break Bulk) Operators – shall mean persons, firms and corporations carrying on the stevedoring business of loading and discharging conventional unitized general cargo from and/or to vessels (other than by means of bulk loading

facilities including grain elevators), rail or terminal sites and/or, the operation of a terminal handling conventional unitized general cargo, and coastwise operators who are owners, operators or charterers of vessels other than deep sea vessels as herein defined.

- (3) Associate Members Class shall be comprised of non-voting members who are engaged in the maritime industry who either may qualify under the above-noted classes and sub-classes but who wish to be a non-voting member, or those who do not come within the description in these By-Laws of Ship Owners, Bulk Terminal Operators, Container Terminal Operators or General Terminal (Break Bulk) Operators. Such member shall not be entitled to vote at any meetings or to participate in the election of Directors, or be entitled to be a Director.

(b) Membership in the Society in classes and sub-classes of By-Law 1(a)(1), (2) and (3) shall be limited to such persons, firms or corporations as the Directors may approve who shall be Ship Owners, Bulk Terminal Operators, Container Terminal Operators, General Terminal (Break Bulk) Operators or Associate Members.

(c) The Directors are empowered upon application by a member, or at the discretion of the Directors, to determine from time to time the class and sub-class to which any member shall belong.

APPLICATION FOR MEMBERSHIP

(d) Application for membership shall be made on a form approved by the Directors and supplied to the applicants by the Secretary and the applicants shall give all such particulars as the form may require. The form of application shall be signed by the applicant and shall be proposed and seconded by the representatives of two members of the Society in good standing, neither of whom shall be on the Board of Directors of the Society. The application shall be delivered to the Secretary of the Society, accompanied by the entrance fee, which shall be returned to the applicant if the application shall be rejected. The Membership Committee, upon receipt of the application and entrance fee, shall at the earliest possible date, arrange for representatives of the applicant to appear before that Committee for the purpose of considering the merits of the application.

Following such appearance, the Membership Committee shall then, with due dispatch, recommend to the Executive Committee of the Board of Directors either approval or rejection of the application for membership. Such application will be considered by the Board of Directors at their next scheduled meeting. The decision of the Board of Directors to accept or reject an application shall be communicated to the Applicant in writing by the Secretary or by any other person who may be authorized by the Board of Directors.

(e) Every applicant accepted as a Corporate Member shall forthwith, after its application is accepted, appoint in writing a representative and also an alternate representative to represent the corporation in respect of the membership of the corporation in the Society. Every representative or

alternate representative appointed to represent the

corporation shall be an actively employed Director, officer or executive employee of the corporation. Each corporation may at any time in similar manner appoint a new or other representative to represent the corporation as aforesaid to replace the representative previously appointed.

(f) Entrance fees, dues, levies and assessments shall be payable by all members in such amounts for the various classes of members and at such times as may be determined from time to time by the Directors of the Society.

OBLIGATIONS OF MEMBERSHIP

(g) Every member of the Society whose application has been accepted shall be and be deemed to be bound to accept any decision of the Board of Directors providing such a decision is consistent with the Constitution and By-Laws of the Society. The Board of Directors shall have the authority to settle any dispute between its member(s) and the Society concerning the interpretation, application, or operation of the Constitution and By-Laws or any matter incidental thereto. Every member of the Society shall by his acceptance of such membership be and be deemed to be bound to accept any decision by any committee of the Society and/or its Directors in settlement of any dispute between its members(s) and the Society which its Directors or any committee thereof may have investigated or adjusted or attempted to adjust provided that such a decision is consistent with the Constitution and By-Laws of the Society.

(h) Every person, firm or corporation whose application has been accepted shall be notified by the Secretary in writing of his election to membership and forthwith thereafter shall be bound by, conform to, abide by and submit to the Constitution and By-Laws of the Society, and all Rules and Regulations from time to time made by the Society or its Directors, as well as any and all collective agreements and other related undertakings and agreements containing provisions as to rates of pay, hours of work and other terms and conditions of employment of labour and all Rules and Regulations governing working conditions of whatsoever nature arranged, accepted, set up, approved or entered into by the Society.

(i) Every person, firm or corporation shall by its acceptance of membership be deemed to have authorized the Society through its Directors to bargain collectively on its behalf, and to enter into a collective agreement or other related undertaking or contract with such trade union or such trade unions, or such representative, as the Directors shall determine, with reference to the employment of labour in such terms as the Directors considers proper; provided, however, that the Society by its Directors may permit a member to bargain collectively with and enter into directly with a trade union or trade unions or representative, collective agreements or other related undertakings or contracts.

(j) (1) A member in good standing shall mean a member who has been duly accepted into membership in accordance with By-Law 1 (e) and who is not currently under suspension from membership for any reason in accordance with the By-Laws.

(j) (2) Where a member has ceased to be a member in good standing, the member, or representatives of a Corporate Member, shall not be permitted to attend any meeting of the Society, or to hold office, or to vote on any question, and the provision of services to the member by the Society may be restricted as the Directors shall determine.

BY-LAW 2
SUSPENSION, EXPULSION, SANCTION,
RESIGNATION AND CESSATION OF
MEMBERSHIP

(a) (1) The Directors may, by resolution, suspend or expel any member for conduct which the Directors, in their sole discretion, consider to be inimical or adverse or contrary in any way to the best interest of the Society, including without limitation the failure to obey or comply with any properly constituted vote of the Society or its Directors concerning any matter including a directive to lockout, or for non-observance of the By-Laws, regulations or directives of the Society or its Directors, or for non-payment of dues, fees, levies and assessments. Not less than five (5) Business Days' notice in writing of the time and place of the meeting at which the matter is to be considered by the Directors shall be given to the member concerned and which notice shall contain a statement of the complaint or matter to be considered by the Directors. If the member does not attend such meeting, the Directors shall be entitled to make a decision in the member's absence.

(a) (2) The Directors may, by resolution, deny despatch of labour, directly or indirectly, to a member for such period as is deemed warranted for an infraction of the member's obligations under the collective agreement or for instituting practices which are inimical to the orderly administration of

the collective agreement. Following notification to an Officer of the Society of such infraction or practices, the Society's Contract Administrators shall investigate such infraction or practices and submit a written report to the Officers of the Society following the investigation. The report with the recommendations of the Chief Executive Officer of the Society or his designate will be forwarded to the Directors forthwith for consideration and further action. Forty-eight (48) hours' notice as to the time and place of the meeting at which the complaint or matter is to be considered by the Directors shall be given in the most expeditious manner to the member concerned and such notice shall contain a statement of the complaint or matter to be considered by the Directors. If the member does not attend the meeting, a decision may be made in that member's absence.

(b) A member may resign from the Society by delivering to the Society by registered mail, written notice to that effect, such resignation shall not become effective until the expiration of ninety (90) days from the date upon which such notice was received by the Society and until all sums of money due from the member of the Society have been paid, nor shall such resignation release the member from any of such member's liability under any agreements, contracts or obligations entered into by the Society and by which the said member is bound, during the currency of the same; provided however, a member shall not have the right to resign during the continuance of a strike of his or its workmen or during any period of negotiation by the Society on behalf of such members for a collective agreement.

(c) Where a complaint by a member is received by the Directors that a debtor customer ("Customer") of the complaining member has failed to make payment in full of that member's invoice or

stevedoring, wharfage or berthing services or any Society assessment, the Directors may, by resolution passed by the Board of Directors, decline to provide any of the Society's services to any other member requesting [such services] for the benefit of the Customer until the amount outstanding has been paid, provided that, if the Customer disputes its obligation to make the payment of the account of the complaining member, it may pay the amount into the Society's designated trust account and submit the dispute to arbitration at Vancouver pursuant to the Rules of the Vancouver Maritime Arbitrators Association. Notwithstanding any provisions of these By-Laws to the contrary, the foregoing provisions of this paragraph 2(c) shall at all times be read, construed and limited to authorize, direct, permit and suffer only such decisions, resolutions or determinations on the part of the Society, its directors, its officers or members to act or not to act to the extent the same are at all times lawful under the *Competition Act* (Canada) and all other applicable law and not otherwise.

(d) Any member ceasing to remain within the definition of persons eligible to apply for membership in the Society for any reason shall cease to be a member of the Society upon a resolution of the Directors of the Society to that effect.

(e) When a member becomes bankrupt, he shall cease to be a member of this Society if the Board of Directors shall, in its discretion, so determine by resolution to that effect. Such member's contractual obligations under these By-Laws shall remain binding in accordance with the terms of such resolution and all claims of the Society against such member may be made in the bankruptcy.

BY-LAW 3 APPEAL OR ARBITRATION

In the event that any member(s) shall be dissatisfied with any decision referred to in By-Law 1(h), or in a decision made by the Directors under By-Law 2, the affected member(s) shall be entitled to appeal to the members of the Society by notice in writing setting out the grounds of appeal, which notice shall be delivered to the office of the Society within one week from the date of notification of such decision. The decision of the members made by a special resolution of the members present at a general meeting held after such notice is received shall be final and binding upon such member(s) and all other persons concerned with such decision in all respects. Any such meeting of the members must be called and held within 30 days of receipt of such notice by the Society. If a member so elects, instead of appealing to the membership, the member shall be entitled to submit the matter in dispute to arbitration pursuant to the rules of the *Commercial Arbitration Act* (British Columbia), unless the Directors, in their sole discretion, determine that the subject matter of the dispute in question is not appropriate for arbitration, in which event the appeal shall be made to the membership.

BY-LAW 4
ANNUAL GENERAL AND OTHER MEETINGS,
NOTICE THEREFOR, QUORUM AND VOTING

MEETING OF MEMBERS

(a) The Annual General Meeting of the Society shall be held once in every calendar year at such time during the month of March and place within the Province of British Columbia as may be prescribed by the Directors and of which not less than thirty-five (35) days' written notice shall be given to each member. General meetings of the Society may be held at any time at such time and place within the Province of British Columbia as the Directors may determine. There may be transacted at any general meeting all such business as may be legally transacted at a general meeting whether or not the nature of such business has been mentioned or set out in the notice calling the meeting.

(b) The Directors may, whenever they think fit, convene a general meeting of the Society on not less than fourteen (14) days' written notice and such notice shall specify the place, day and hour of the meeting.

In the event of an emergency, in the opinion of the Directors, a special general meeting may be convened on not less than twenty-four (24) hours' notice. Such notice shall be given by letter, telephone, telegram or facsimile specifying the place, day and hour of the meeting.

(c) The Directors shall on the requisition of ten percent or more of the members of the Society, excluding members belonging to the Associate Members Class, convene a general meeting of the Society. The requisition must state the purpose of the meeting and must be signed by the requisitionists and delivered or sent by registered mail to the address of the Society and may consist of several documents in like form each signed by one or more requisitionists. If the Directors do not within twenty-one (21) days after the date of the delivery of the requisition convene a meeting, the requisitionists, or a majority of them, may themselves convene a meeting but any meeting so convened shall not be held after the expiration of four (4) months from the said date. Any meeting convened under this By-Law by the requisitionists shall be convened in the same manner as nearly as possible as that in which meetings are to be convened by the Directors.

QUORUM

(d) At any general meeting of the Society, a quorum shall be twenty-five percent (25%) of the members in good standing and entitled to vote, present by their duly appointed representatives or alternate representatives, if the member is a Corporate Member, provided always that any lesser number of such members present as aforesaid shall have power to adjourn such meeting.

VOTING BY MEMBERS

(e) Every member (except members belonging to the Associate Members Class) in good standing and entitled to vote shall have one vote. Except as otherwise required by the *Society Act* or these By-Laws, at a general meeting of the Society, all questions shall be decided by a majority vote of those members present by their representatives or alternate representatives, if the member is a Corporate Member, and voting. The President of the Society shall act as Chairman of any meeting of the members of the Society and shall not be entitled to vote. In the absence of the President, the members of the Society shall appoint a member to act as Chairman for that meeting and that member acting as Chairman shall remain entitled to only one vote and shall not be entitled to a further casting vote as Chairman.

DIRECTORS

BY-LAW 5 POWERS OF DIRECTORS

(a) The management and direction of the Society and its affairs shall be vested in the Directors who shall have authority to carry out the purposes of the Society as stated in Article 2 and without restricting the generality of the foregoing to approve the terms of settlement for collective agreements, and other related undertakings and contracts with reference to employment of labour; to decide questions of policy and to carry out and administer such agreements and any negotiations therefore including but not limited to such matters as a directive to lockout; to decide on the assessment schedules for the Society and to employ such staff, advisors and consultants as are

deemed necessary; to establish fees, dues, levies and assessments payable by the members at such times and on such criteria as determined by them; and to settle any dispute between its members and the Society concerning the interpretation, application or operation of the Constitution and By-Laws or any matter incidental thereto.

NUMBER AND REPRESENTATION

(b) The Directors shall be thirteen (13) in number:

- Ship Owners – Five (5) Directors shall be elected at large by the members of the Ship Owners Class. The composition of the five (5) Directors referred to above (but not the aggregate number of Directors) may be modified from time to time by a unanimous agreement of Directors of the Ship Owner Class then comprising the Board provided that such composition shall include representatives from both the container and break bulk sectors at all times and provided that such modification shall be without effect until the term of any Director to be removed has expired. All members of the Ship Owners Class shall be given not less than fifteen (15) Business Days' notice of any meeting at which any change in the composition of the Directors of the Ship Owners Class will be considered. Any such unanimous agreement shall be filed with the Society at its registered and records office and available for inspection with these By-Laws.

- Direct Employers – Eight (8) Directors composed as follows:
 - Five (5) Directors shall be elected at large from the category which includes members of the Container Terminal Operators sub-class and the General Terminal (Break Bulk) Operators sub-class. The composition of the Board shall include at least two representatives elected at large from the General Terminal (Break Bulk) Operators sub-class and the Container Terminal Operators sub-class at all times; and
 - Three (3) Directors shall be elected at large by the members of the Bulk Terminal Operators sub-class.

The composition of the eight (8) Directors referred to above (but not the aggregate number of Directors) may be modified from time to time by a unanimous agreement of the Directors of the Direct Employers Class then comprising the Board; provided that such modification shall be without effect until the term of any Director to be removed has expired. All members of the Direct Employers Class shall be given not less than fifteen (15) Business Days' notice of any meeting at which any change to the composition of the Directors of the Direct Employers Class will be considered. Any such unanimous agreement shall be filed with the Society at its registered and records office and be available for inspection with these By-Laws.

All of the foregoing Directors shall each be entitled to one vote at Directors' meetings.

The President of the Society shall be entitled to be present at Directors' meetings unless the Directors decide that he shall be excluded from any meeting or part of a meeting.

ELECTION OF DIRECTORS

(c) The Directors shall be elected in the following manner, namely: the members of each class or sub-class, entitled to elect a Director or Directors may each, not more than thirty (30) days before the date of the annual general meeting in the year in which Directors are to be elected, nominate from amongst the individual members and representatives of Corporate Members of that class or sub-class, one or more candidates for election as a Director to represent that class or sub-class in accordance with By-Law 5(b). The nominations shall be in writing and shall be delivered to the Secretary of the Society. The consent in writing of the person nominated must be obtained and delivered to the Secretary at the same time the nomination is submitted to the Secretary. Nominations shall be closed at 3:00 o'clock in the afternoon on that day which is fifteen (15) Business Days prior to the date set for the annual general meeting and all nominations received after that date shall be ineffective.

Individual members and representatives of Corporate Members who agree to accept nomination for election as a Director will, at the time of agreeing, make a declaration as to the ownership by their company (or its parent company), or by the representative or individual himself, in any other member company of the Society. The declaration will indicate where the member company (or its parent company) or the individual member owns or controls more than one-third of the voting stock in another member company of any class or sub-class. The information contained in the declaration will remain confidential to the Secretary.

In the case where a member company, its parent company, or its representative, owns more than one-

third of the voting stock of one or more other member company or companies then no more than one representative from those companies will be permitted to seek election as a Director. In such case, the Secretary will convene a meeting or otherwise communicate with the representatives involved in order to determine which representative will seek election as a Director. Any disagreement will be referred to the Board of Directors for final resolution.

Within four (4) days after the close of nominations, the Secretary shall send to the members of each class or sub-class entitled to vote a ballot paper containing the names of all persons nominated for Directors to represent that class and which ballot paper shall be returned to the Secretary by each member desiring to vote for such Directors not less than seven (7) days prior to the date set for the said annual general meeting. The form of the ballot paper and the procedure for conducting the vote shall be as determined by the Directors from time to time.

(d) Each member of a class or sub-class (as the case may be) shall be entitled to vote only for the requisite number of candidates to be elected to represent such class or sub-class (as the case may be).

(e) If the number of candidates nominated does not exceed the number to be elected for any class, the Secretary shall declare that those so nominated are elected as Directors to represent such class or sub-class.

(f) Of the candidates nominated to represent a class or sub-class, those, to the number to be elected to represent that class, receiving the greatest number of votes shall be declared by the Secretary to be

elected as Directors to represent such class or sub-class.

(g) In case the election of one or more Directors to represent a class or sub-class is undecided by reason of an equality of votes, the names of the candidates whose election is undecided by reason of such equality of votes, shall be deposited in a ballot box and the Secretary shall draw by chance from the said ballot box, in the presence of any two (2) elected Directors, one or more of such names sufficient to make up the required number of Directors to represent such class or sub-class and the Secretary shall declare the candidates whose names are so drawn to be elected as Directors to represent such class or sub-class.

(h) Notwithstanding anything to the contrary contained herein, in the case of a failure at any election to elect the requisite number of Directors to represent any class or sub-class, the elected Directors may appoint to the vacant place, any member of the Society duly qualified to be elected as a Director, or where no duly qualified member is available, the Directors may appoint to the vacant place any member of the Society or any other person to represent such class and the member or members so appointed shall hold office as if they had been duly elected at such election to represent such class or sub-class.

CASUAL VACANCIES

(i) If, during the term of a directorship, a Director, the company such Director represents or its parent company, acquires a shareholding in excess of one half in another company which has a representative on the Board of Directors, a declaration to that effect must be made promptly to the Secretary and one of the two Directors shall

resign. If, during the term of a directorship, a Director, the company such Director represents or its parent company, acquires a shareholding in excess of one-third, but less than one-half, in another company which has a representative on the Board of Directors, a declaration to that effect will be made promptly to the Secretary and only one of the two member companies will be eligible to have a representative sit on the Board of Directors following the next annual general meeting.

(j) Subject to paragraph (k) below, any casual vacancy occurring among elected Directors may, in an emergency, be filled by the Directors (the existence of an “emergency” within the meaning of this By-Law to be determined by the Directors) by the appointment of any member of the Society duly qualified to be elected as a Director to represent the class in respect of which the elected Director’s vacancy exists. Any casual vacancy occurring among elected Directors, under circumstances other than an emergency, may be filled by the Directors causing a preference survey to be taken of members within the class of membership whose established representation on the Board of Directors is deficient because of such casual vacancy. The procedure for conducting such preference survey shall be as determined by the Directors from time to time.

The Director so appointed to replace an elected Director shall hold office for the balance of the term so vacated or for such shorter term as the Board may determine in its sole discretion.

(k) Where a casual vacancy arises within a sub-class as a result of a “resignation” which, in the opinion of the Board cannot be filled through a preference survey in a timely fashion or where, in the opinion of the Board, an emergency exists such that an interim appointment to fill the casual vacancy is

necessary to maintain the integrity of the voting representation on the Board of the sub-class, and there is no qualified replacement member readily available, the Board upon recommendation of the remaining members of the sub-class affected, or where no members of the sub-class remain, the Board on its own motion, may appoint an individual “at large” to assume the duties of a Director of that sub-class for the balance of the term. That individual need not be a member of the sub-class or of the Society, but will be appointed to represent the interests of the sub-class to the satisfaction of the members of that sub-class or the Board, for the balance of the term, for such shorter term as the Board may determine in its sole discretion or until a qualified member of the sub-class becomes available for appointment as a Director.

TERM OF DIRECTORS

(1) (1) Except as otherwise set out in paragraph (1)(3) of these By-Laws, all Directors shall be elected for a term of two (2) years and in accordance with the following rotating manner:

- (i) in each even numbered year, six (6) Directors, comprising of the following:
- Two (2) Directors from the Ship Owners Class;
 - Two (2) Directors from the Bulk Terminal Operators sub-class of the Direct Employers Class;
 - Two (2) Directors from either the Container Terminal Operators sub-class or the General Terminal (Break Bulk) Operators sub-class of the Direct Employers Class provided that the provisions of By-Law 5(b) are satisfied; and

- (ii) in each odd numbered year, seven (7) Directors, comprising of the following:

- Three (3) Directors from the Ship Owners Class;
- One (1) Director from the Bulk Terminal Operators sub-class of the Direct Employers Class;
- Three (3) Directors from either the Container Terminal Operators sub-class or the General Terminal (Break Bulk) Operators sub-class of the Direct Employers Class provided that the provisions of By-Law 5(b) are satisfied.

(1) (2) For greater certainty, the provisions of By-Law 5(b) shall apply to the election of Directors set out in paragraphs (1)(1)(i) and (ii) above.

(1) (3) Notwithstanding anything contained herein to the contrary, the term of office of any Director elected immediately subsequent to the

approval of these By-Laws may be specified, as part of the such election proceeding, to expire at the next annual general meeting in order to ensure that the terms of office of six (6) Directors expire at the first annual general meeting subsequent to the implementation of these By-Laws.

QUORUM OF DIRECTORS

(m) A quorum of Directors for the transaction of business at Directors' meetings shall be either:

- (i) 9 Directors present in person OR
- (ii) where three or more proxies have been filed in accordance with By-Law 5(n), seven (7) Directors present in person and among them are held three or more proxies OR
- (iii) where two proxies have been filed in accordance with By-Law 5(n), eight (8) Directors present in person and among them are held two proxies.

VOTING BY DIRECTORS

(n) Questions arising at any meeting of Directors and, for greater certainty, all decisions of the Directors, resolutions of the Directors, determinations of the Directors or any similar exercise by the Directors of their powers hereunder shall be decided by nine (9) or more votes in favour of the motion, resolution, determination or decision. Each Director shall be entitled to one (1) vote. The Chairman of the Board shall act as Chairman of meetings of Directors at which he is present. The Chairman of the Board shall be entitled to a vote. In the event of the absence of the Chairman of the Board from any meetings of the Directors, the Chairman shall, upon knowing of his inability to

attend, appoint one of the members of the Executive Committee who will be available to act as Chairman of that meeting and any member of the Executive Committee so appointed as Chairman shall continue to retain his entitlement of one (1) vote but will not be entitled to a further vote or casting vote as Chairman of the meeting. Failing, for any reason, the ability of the Chairman of the Board to appoint a member of the Executive Committee, then those remaining members of the Executive Committee shall appoint from their number one member who shall act as Chairman of the meeting. Secret ballots shall be conducted when the Board of Directors by motion so resolves.

VOTING OF DIRECTORS BY PROXY

(o) If a Director is unable to attend a meeting of Directors of which he shall have received notice, it shall be the duty of such Director to authorize and direct any other Director who shall be present at the meeting to vote for and on behalf of the absent Director; such authorization and direction shall be in writing and in such form as the Directors shall prescribe and shall be revocable and may specify the manner in which the present Director shall vote on any particular matter and in the absence of any such specific direction, the present Director may vote on behalf of the absent Director as he shall think fit.

REMOVAL OF DIRECTORS

(p) A Director may be removed from office by special resolution of the members.

REMUNERATION OF DIRECTORS

(q) The Directors shall receive no remuneration for their services as Directors of the Society.

MEETING OF DIRECTORS

(r) The Directors may meet for the dispatch of business, call, adjourn and otherwise regulate their meetings as they shall see fit. Directors' meetings may be called in the event of an emergency by notice not less than one hour before the meeting is to be held and such notice may be given verbally by telephone or telegram.

APPOINTMENT OF OFFICERS

(s) The Directors shall appoint a President and Chief Executive Officer, a Secretary and such other officers as are deemed necessary; all for such term and with authority and responsibility as the Directors shall determine.

RESOLUTION IN WRITING

(t) A resolution assented to and adopted by writing under the hands of all the Directors, though not passed at a Directors' meeting, shall be of the same force and effect as if it had been passed at a Directors' meeting. The assent and adoption of the Directors may be in counterparts.

SPECIAL COMMITTEES AND CHAIRMAN

(u) There shall be such standing and special committees having such duties as the Directors may from time to time by resolution determine.

(v) The Directors representing the Ship Owners Class shall nominate one (1) of the Directors from that class to the Executive Committee of the Board. The Directors of each of the three (3) sub-classes representing the Direct Employers Class shall nominate a representative to the Executive Committee. The Board shall appoint these four (4)

nominees to be known as the "Executive Committee". All members appointed to the Executive Committee shall be entitled to one (1) vote. The authority and responsibility of the Executive Committee, and the rules for election of Chairman including nomination procedures, shall be set out in a policy as approved by the Directors as they may determine from time to time, except as otherwise set out herein.

The Directors shall elect one Director who is a member of the Executive Committee to be both the Chairman of the Executive Committee as well as the Chairman of the Board of Directors, to hold such offices for a term specified in a policy as approved by the Directors.

The term of office of the Directors appointed to the Executive Committee shall be set out by the Directors as they may determine from time to time, but no Director shall function on the Executive Committee longer than the term of his office as a Director of the Society, save and except that if a Director is elected as Chairman, either of the Executive Committee or of the Board of Directors, for a term in excess of the current term of his office as Director, but is thereafter re-elected as a Director in the immediately succeeding election of Directors, then such Chairman's term may continue for the term specified. In any other circumstance, a Chairman's office will be deemed to be vacated and another election will be held to fill such vacancy.

Except as otherwise set out herein, when the Chairman of the Executive Committee is a Director who represents the Direct Employers Class, then the Directors shall elect to the office of Chairman of the Finance Committee a Director who represents the Ship Owners Class, and vice versa. Notwithstanding the above, in a 'bargaining year' and continuing until December 31 of the year in which a collective

agreement has been successfully negotiated, a Director representing the Direct Employers Class shall be elected as Chairman of the Executive Committee and Chairman of the Board.

DONATIONS

(w) Notwithstanding anything in the Constitution or By-Laws of the Society the Directors shall not have power to make or pay out of the funds or any other assets whatsoever of the Society any gift, donation or subscription whatsoever to or for the benefit or purpose or purposes of any person, firm, corporation or organization whatsoever, in any case where the amount thereof (or in any case where if the amount is to be paid or made payable by installments the aggregate amount of such instalments) shall exceed One Thousand Five Hundred (\$1,500.00) Dollars, unless and until such gift, donation or subscription shall have been duly authorized by a special resolution of the Society.

BY-LAW 6 BORROWING POWERS

Subject to the provisions of the *Society Act*, the Directors may borrow or raise and secure the payment or repayment of monies in order to meet the expenses of the operations of the Society and in furtherance of the objects of the Society.

BY-LAW 7 AUDIT

The accounts and books of the Society shall be examined at least once in each year and their correctness ascertained and certified by a firm of chartered accountants who shall be appointed by the Directors.

BY-LAW 8 THE SEAL

The Secretary of the Society shall have custody of the Seal which shall not be affixed to any instrument except by authority of a resolution of the Board of Directors and in the presence of such Directors and/or officers of the Society as may be prescribed by such resolution.

BY-LAW 9 ALTERATION OF BY-LAWS

The Constitution and By-Laws of the Society may only be altered or added to by special resolution of the Society, in addition to the requirement of approval by the Board of Directors, where specified. Any amendment to By-Laws 1, 2, 3, 5, 9, 10 and 12, in addition to the requirement of approval by way of special resolution, shall also require approval by a resolution passed by the Directors of the Society.

BY-LAW 10 SPECIAL RESOLUTION

In these By-Laws, a special resolution means a resolution passed:
by a majority of not less than 75% of the votes cast by members entitled to vote; AND
at a general meeting of which such notice as the By-Laws provide and not being less than 14 days' notice has been given, specifying the intention to propose the resolution as a special resolution.

BY-LAW 11 MINUTES, BOOKS AND RECORDS

The Secretary or some other officer specially charged by the Directors with that duty shall maintain and have charge of the minute book of the Society and shall record or cause to be recorded

therein minutes of proceedings of all meetings of members and Directors. The books and records of the Society may be inspected by the members of the Society at such time and place as may be fixed from time to time by the Directors.

BY-LAW 12 WINDING UP

No member of the Society shall be entitled to any of the property or assets of the Society and in the event that the Society shall be wound up or dissolved, any surplus assets remaining after such winding up or dissolution shall be distributed to a society or societies, with the same or substantially the same purposes as the Society, in such proportion or proportions as the Directors may determine.

BY-LAW 13 NOTICES

Unless otherwise specified in these By-Laws, a notice may be given by the Society to any member either to him personally or to his representative personally or by sending it by post to him or his representative to the address within the Province of British Columbia shown in the records of the Society as the address for such member or his representative. 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 on the day following the date of posting.

The failure by the Society to give notice of any meeting to any member or his representative or the failure of any member or his representative to receive any such notice shall not in any way invalidate any of the proceedings or actions taken at any meeting for which any such notice has been given by the Society.

BY-LAW 14

INDEMNITY TO DIRECTORS AND OFFICERS

(a) Subject to the provisions of the *Society Act* (including any requirement thereunder for Court approval) and any applicable agreement referred to in paragraph (b), the Society shall indemnify a Director or Officer or former Director or Officer of the Society or a Director or Officer or former Director or Officer of a subsidiary of the Society, and his or her heirs and personal representatives, against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, actually and reasonably incurred by him or her, in a civil, criminal or administrative action or proceeding to which he or she is made a party by reason of being or having been a Director or Officer, including an action brought by the Society or subsidiary.

(b) The Society may enter into an agreement, in writing, with any Director or Officer or former Director or Officer of the Society or any Director or Officer or former Director or Officer of a subsidiary of the Society, to better define the scope of indemnification required under paragraph (a) and the parties' respective rights and obligations in relation thereto, and to provide greater certainty as to which costs, charges, and expenses, and which amounts paid to settle an action or satisfy a judgment, will be deemed to have been reasonably incurred for the purposes of the *Society Act* and paragraph (a).

BY-LAW 15

DEFINITIONS

In these By-Laws, the following terms have the following meanings:

1. “Associate Members Class” shall have the meaning ascribed to it in By-Law 1(a)(3).

2. “Business Day” shall mean any Monday through Friday unless such day is recognized as or is deemed to be a holiday under the collective agreement.

3. “*Commercial Arbitration Act*” shall mean the *Commercial Arbitration Act* of British Columbia, R.S.B.C. 1996, c.55.

4. “Corporate Member” shall mean a corporation incorporated under the *Canada Business Corporations Act*, *Business Corporations Act* (British Columbia), or similar legislation in any province of Canada and which is duly registered to carry on business under the provisions of the *Business Corporations Act* (British Columbia) **or** a partnership or limited partnership established pursuant to the laws of any province of Canada and which is duly registered in British Columbia under the *Partnership Act* (British Columbia), and which has been admitted as a member of the Society pursuant to the By-Laws.

5. “deep sea vessels” shall have the meaning ascribed to it in By-Law 1(a)(1).

6. “Direct Employers Class” shall have the meaning ascribed to it in By-Law 1(a)(2).

7. “Executive Committee” shall mean the Committee constituted pursuant to By-Law 5(v), which shall be comprised of four Directors, one representing the Ship Owners Class and one Director representing each of the three sub-classes (as set out in By-Law 1(a)2) of the Direct Employers Class.

8. “Membership Committee” shall mean the committee established by the Board to deal with membership matters.

9. “representative” shall mean the individual appointed by a Corporate Member in accordance with By-Law 1(f).

10. “Rules and Regulations” shall mean the rules and regulations as established by the Board and as may be amended from time to time.

11. “Ship Owners Class” shall have the meaning ascribed to it in By-Law 1(a)(1).

12. “Society” shall mean the British Columbia Maritime Employers Association.