



# **DUBLIN PORT COMPANY**

## **Directors' Code of Conduct**

**26 July 2024**

*This Directors' Code of Conduct ("**Code**") belongs to and was created by Dublin Port Company.*

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# DUBLIN PORT COMPANY

## 1 INTRODUCTION AND OBJECTIVE

### 1.1 Introduction

This Code of Conduct (this “**Code**”) applies to all members of the board of directors of Dublin Port Company (the “**Company**”) and any subsidiary and/or associated companies of Dublin Port Company (the “**Director(s)**” or the “**Board**”). It shall also apply to any members of Board appointed committees of the Company who are not Directors.

To prepare and have published a Code of Conduct for Directors is a requirement of the Code of Practice for the Governance of State Bodies (the “**Code of Practice**”) which applies to the Company as a State body. The Code of Practice and its provisions and requirements is a document which all Directors should be fully familiar with.

### 1.2 Objective

The primary objective of this Code is to emphasise the Company’s commitment, as a State body, to the highest standard of conduct through:

- establishing and setting down an agreed set of ethical principles;
- promoting and maintaining confidence and trust in the Company;
- seeking to prevent the development or acceptance of unethical practices through a focus on the principles of control and integrity;
- supporting and guiding the Directors on principles of governance and ethical and other considerations expected of all Directors of a State body.

While this Code references certain legislation, guidelines and rules, it is not a detailed legal summary of all these provisions. The focus in this Code is on ethical and governance matters such as disclosure, confidentiality, conflicts of interest and behaviour. As directors of the Company there is an expectation of familiarity with the provisions of this Code, the Code of Practice, principles of good governance, legislation applicable to State bodies and to applicable legal requirements generally.

## 2 GENERAL RESPONSIBILITIES AND PRINCIPLES

### 2.1 Role of the Board

The following provisions set out in Section 1 of the Code of Practice are instructive as regards to the Role of the Board:

“The Board is collectively responsible for leading and directing the State body’s activities. While the Board may delegate particular functions to management, the exercise of the power of delegation does not absolve the Board from the duty to supervise the discharge of the delegated functions.

The Board should fulfil key functions, including: reviewing and guiding strategic direction and major plans of action, risk management policies and procedures, annual budgets and business plans, setting performance objectives, monitoring implementation and State body performance, and overseeing major capital expenditure and investment decisions.

The Board should act on a fully-informed and ethical basis, in good faith, with due diligence and care, and in the best interest of the State body, having due regard to its legal responsibilities and the objectives set by Government.

The Board should promote the development of the capacity of the State body including the capability of its leadership and staff.

The Board is responsible for holding the CEO and senior management to account for the effective performance of their responsibilities.

**Leadership:** The Board's role is to provide leadership and direction of the State body within a framework of prudent and effective controls which enables risk to be assessed and managed. The Board should agree the body's strategic aims with the Minister and parent Department, to the extent relevant, and ensure optimal use of resources to meet its objectives.

**Ethical Standards:** The Board has a key role in setting the ethical tone of a State body, not only by its own actions but also in overseeing senior management and staff. High ethical standards are in the long term interests of the body and a key means to make it credible and trustworthy. It is important that the Board sets the correct 'tone from the top'. The Board should lead by example and ensure that good standards of governance and ethical behaviours permeate all levels of the organisation.

**Compliance:** The Board should review the controls and procedures adopted by the State body to provide itself with reasonable assurance that such controls and procedures are adequate to secure compliance by the State body with their statutory and governance obligations.

**Collective Responsibility:** The collective responsibility and authority of the Board should be safeguarded. All Board members should be afforded the opportunity to fully contribute to Board deliberations, and where necessary to provide constructive challenge, while excessive influence on Board decision-making by one or more individual members should be guarded against.

**Board Oversight Role:** The management of the State body has a duty to provide the Board with all necessary information to enable the Board to perform their duties to a high standard. The Board of the State body should take all necessary steps to make themselves aware of any relevant information and access all information as necessary.

While the Board of a State body may establish an Audit and Risk Committee to assist with its consideration of issues relating to audit, governance and risk management, the Board of the State body maintains responsibility for and makes the final decisions on all of these areas.

**Advice to Minister:** The Board should ensure that the Chairperson keeps the relevant Minister advised of matters arising in respect of the State body."

## 2.2 **Fiduciary Duties of Directors**

Under the Companies Act 2014, as amended, (the "**Companies Act**") Directors, as individuals, have fiduciary duties to the Company to which the Director is appointed to, which duties can extend in certain circumstances, to the interests of the Company's members, to the interests of the Company's employees, and to the interests of the Company's creditors.

As set out in Section 3.1 of the Code of Practice, principle fiduciary duties of Directors include the following:

All Board members have a fiduciary duty to the State body in the first instance (i.e. the duty to act in good faith and in the best interests of the State body).

The principle fiduciary duties are:

- to act in good faith in what the Board member considers to be the interest of the company;

- to act honestly and responsibly in relation to the conduct of the affairs of the company;
- to act in accordance with the company's constitution and exercise his or her powers only for the purposes allowed by law;
- not to benefit from or use the company's property, information or opportunities for his or her own or anyone else's benefit unless the company's constitution permits it or a resolution is passed in a general meeting;
- not to agree to restrict the Board member's power to exercise an independent judgment unless this is expressly permitted by the company's constitution;
- to avoid any conflict between the Board member's duties to the company and the Board member's other interests unless the Board member is released from his or her duty to the company in relation to the matter concerned;
- to exercise the care, skill and diligence which would be reasonably expected of a person in the same position with similar knowledge and experience as a Board member. A Board member may be held liable for any loss resulting from their negligent behaviour; and
- to have regard to interests of the company's members.

The powers of governance and management of a company are delegated by the members of the company to the Board and the Board owe their duties, first and foremost, to the company.

### 2.3 **Legislation and Rules**

Certain legislation and other guidance and rules of particular importance and relevance to the Company and its Directors, include the Harbours Acts 1996–2015 (as the Company's grounding legislation), the Articles of Association of the Company, the Companies Act, and applicable public body legislation and guidelines including the Ethics of Public Office Acts, 1995–2001, the Standards in Public Office Act 2001, the Criminal Justice (Corruption Offences) Act 2018, the Protected Disclosures Act 2014 and the Code of Practice for the Governance of State Bodies (2016).

Certain provisions of some of the above are highlighted in this Code where relevant. This is not to infer that the wider provisions of such legislation are not relevant or applicable to the Company, or indeed that any legislation that applies to companies, employees, or any other matter, is likewise not applicable to the Company. If a Director at any time, or in respect of any particular circumstance or situation, feels that certain of the obligations in the myriad of applicable legislation and Codes conflict, or places him/or her in an uncertain position as a Director, then he should raise this with the Chairperson. The Company's lawyers will be available to advise as required.

## **3 CONFIDENTIALITY AND INFORMATION**

### 3.1 **Confidentiality Requirements**

As a general principle, Directors have various fiduciary, statutory and contractual duties to at all times keep matters pertaining to the Company confidential and secure, save as approved by the Company in the course of its business.

To assist and guide the Directors, the Company has specifically prepared and published a separate Guidance on Confidentiality (the "**Confidentiality Guidance**") which was adopted by the Board in February and set out in Schedule 4 of this Code.

The Confidentiality Guidance highlights various specific and general obligations around confidentiality, to include the important fact that these obligations continue to apply on a Director following the expiry of a Director's term, in relation to the return of Company

documentation at the expiry of the term, and the requirement to take all necessary steps to ensure the confidentiality and security of Board papers and information. It should be reviewed carefully by Directors and its provisions understood and complied with.

Aside from the general confidentiality requirements arising from a director's fiduciary duties to a company, specific confidentiality provisions include Article 104 of the Company's Articles of Association (set out in Schedule 1 of this Code) which binds all Directors to a strict confidentiality obligation; and Section 33 of the Harbours Act 1996 (set out in Schedule 2 of this Code) which contains a specific confidentiality obligation and prohibition on the unauthorised disclosure of confidential information.

Board members shall take all necessary steps to ensure the confidentiality and security of Board papers and information as detailed in the Company's Confidentiality Guidance.

### 3.2 **Survival of Confidentiality Obligations**

The duty of confidentiality survives the termination of the appointment of a Board member. Directors shall maintain the confidentiality of all Board business.

### 3.3 **Social Media Use and Press and Media Communications**

Sitting alongside these confidentiality obligations, as part of the 2024 update of this Code, the Company has included the below requirements to minimise the risks to the Company through use of social media and press and media communications. These requirements apply to all Directors and will continue to apply following expiration of the Director's term.

These requirements include in respect of the use of all forms of social media, including (but not limited to) Instagram, Snapchat, Tik Tok, Facebook, LinkedIn, Twitter, Google+, Wikipedia, Whisper, Tumblr and all other social networking sites, internet postings and blogs. It applies to use of social media for business purposes as well as personal use that may affect the Company's reputation in any way.

Additionally, these requirements encompass all and any public comments given to all forms of media including (but not limited to) print media, broadcast media (such as television and radio), digital media (including social media and online platforms), and all other communication channels.

**Requirements:** The below requirements expressly specify social media use, but shall apply equally to all forms of press and media communications.

- Personal use of social media should not involve unprofessional or inappropriate content. As an officer of the Company, your views on social media may impact on the Company's business or reputation, whether directly or indirectly. Where a Director is stating an opinion on social media, he/she is required to reflect it is your own personal opinion and not that of the Company's.
- Directors must not express opinions on the Company's behalf via social media, unless expressly authorised to do so by the Chairperson.
- Directors must not use social media to defame or disparage the Company, its employees or any third party linked to the Company's business; to harass, bully or unlawfully discriminate against employees of the Company or third parties; to make false or misleading statements; or to impersonate colleagues or third parties. Be respectful to others when making any statement on social media and be aware that a Director is responsible for all communications which will be published on the internet for public viewing.
- Directors must not post comments about sensitive business-related topics, such as the Company's performance, or do anything to jeopardise the Company's trade secrets, confidential information and intellectual property. Directors must not include Company logos or other trademarks in any social media posting or in his/her profile on any social media.

- A Director should also ensure that his/her profile and any content he/she posts is consistent with the professional image he/she presents on behalf of the Company.
- If a Director is uncertain or concerned about the appropriateness of any statement or posting, he/she should refrain from posting it until such time as he/she has discussed it with the Chairperson.
- Where a Director sees social media content that disparages or reflects poorly on the Company, he/she should contact the Chairperson.
- Where it is believed that a Director has failed to follow these requirements or has brought the Company into disrepute by his/her use of social media, he/she will be required to co-operate with any investigation and may be required to remove any social media content which is considered by the Company to constitute a breach of these requirements.

### 3.4 **Press and Media Communication**

Where Directors, other than the Chief Executive, are asked to comment or provide an interview to the press or media, they shall liaise with the Chairperson as to whether the comments can be made in line with Company strategy and policy. No such statement shall be made without the approval of the Chairperson. Upon expiry of their Board membership, Board members shall not make public comments to press, media or social media about Company business without first consulting with the Chairperson to seek approval for such media commentary whether on their own behalf or in response to queries.

### 3.5 **Information**

The Company shall equally respect the confidentiality of sensitive information held by the Company, including material such as commercially sensitive information (including, but not limited to, future plans or details of major organisational or other changes such as restructuring); personal information; and information received in confidence by the Company.

While providing access to general information relating to the Company's activities in a way that is open and enhances its accountability to the general public, the Company shall also observe appropriate prior consultation procedures with third parties where, exceptionally, or subject to legal requirements, it is proposed to release sensitive information in the public interest and comply with all relevant regulatory obligations and statutory provisions relating to the handling of information including data protection, freedom of information and market abuse legislation.

## **4 CONFLICTS OF INTERESTS AND DISCLOSURES OF INTEREST**

### 4.1 **Introduction: Fiduciary and Statutory requirements**

Directors are under a fiduciary duty to at all times act in the best interests of the Company. Furthermore, under Irish company law, Directors have a duty to avoid any conflict between the Director's duties to the Company and his/her other (including personal) interests.

It is central to the conduct of the business of the Company as both a commercial and state-owned entity, that Board members act, and are perceived to act, impartially and not to be influenced in their roles as Board members by personal, business, or social relationships. To this end, Board members should at all times comply with their obligations regarding existing and potential conflicts of interest.

A conflict of interest exists in any situation where the personal or other interest of a Director or a connected party to that Director might in any way affect the discharge by the Director of his/her duties or his/her deliberations in a situation where a Director or a connected party could benefit or be perceived to benefit. It makes no difference that the Company does not suffer as a result of the conflict of interest. The fundamental principle is that a Director or a person connected with a Director must not under any circumstances obtain

any such benefit and must at all disclose the existence or potential existence of such an interest or potential interest.

Section 41 of the Harbours Act 2015 (set out in Schedule 3 of this Code), sections 41(1) - 41(4) of which are also reflected in the Articles of Association of the Company, sets out certain requirements in relation to disclosures of interests. These include that where the company are considering any of the matters set out in Section 41(1), and a Director has a material interest in those matter(s) otherwise than in his capacity as a Board member, then he/she shall:

- in advance of the meeting, disclose to the Board the fact of such interest and the nature thereof;
- neither influence nor seek to influence any decision to be made in relation to the matter being considered;
- absent himself or herself from the meeting or part of the meeting concerned during which the matter is discussed;
- take no part in consideration of the matter; and
- not vote on a decision relating to the matter.

Where a material interest is disclosed, the disclosure shall be recorded in the minutes of the meeting concerned and, for so long as the matter to which the disclosure relates is being dealt with by the meeting, the Director by whom the disclosure is made shall not be counted in the quorum for the meeting.

Where at a meeting of the Board a question arises regarding the course of conduct pursued by a Director in respect of a material interest, the matter shall be determined by the Chairperson.

#### 4.2 **Ethics in Public Office Acts requirements**

Under the Ethics in Public Office Acts, 1995 and 2001, the Directors of the Company are 'Designated Directors' for the purposes of that Act. One of the consequences of this is that they are additionally subject to the disclosure of interest requirements contained in that Act.

Key details of these disclosure requirements are contained in the "Additional Disclosure of Interests by Board Members" section in Section 5 of the Code of Practice as set out below:

##### ***"Disclosure of Interests by Board Members***

- (1) Periodic Disclosure of Interests: On appointment and annually thereafter, each Board member should furnish to the Secretary of the Board or other nominated person a statement in writing of:
  - (a) the interests of the Board member;
  - (b) the interests, of which the Board member has actual knowledge, of his or her spouse or civil partner, child, or child of his/her spouse or civil partner;

which could materially influence the Board member in, or in relation to, the performance of his/her official functions by reason of the fact that such performance could so affect those interests as to confer on, or withhold from, the Board member, or the spouse or civil partner or child, a substantial benefit.

- (2) For the purposes of this disclosure, interests has the same meaning as that contained in the Ethics in Public Office Act 1995. The statement of interests form used for annual statements under the 1995 Act could be utilised for this purpose on an administrative basis. Where the Board member is also a designated director for the purposes of the



Ethics Acts, the annual statement of interests furnished in January each year under section 17 of the Ethics in Public Office Act 1995 will suffice for the purposes of the annual disclosure of interests under this Code.

- (3) Disclosure of interest relevant to a matter which arises: In addition to the periodic statements of interest required under (i) above, Board members are required to furnish a statement of interest at the time where an official function falls to be performed by the Board member and he/she has actual knowledge that he/she, or a connected person as defined in the Ethics Acts, has a material interest in a matter to which the function relates. For the purposes of this disclosure, material interests has the same meaning as that contained in the Ethics in Public Office Act 1995.
- (4) Doubt: If a Board member has a doubt as to whether an interest should be disclosed pursuant to this Code, he/she should consult with the Chairperson of the Board and/or the nominated person in the State body for dealing with such queries.
- (5) Confidential Register: Details of interests disclosed under this Code should be kept by the Secretary of the Board or other nominated person in a special confidential register. Access to the register should be restricted to the Chairperson and Secretary of the Board and other members of the State body on a strictly need to know basis.
- (6) Chairperson's Interests: Where a matter relating to the interests of the Chairperson arises, the other members attending the meeting shall choose one of the members present at the meeting to chair the meeting. The Chairperson should absent himself/herself when the Board is deliberating or deciding on a matter in which the Chairperson or his/her connected person has an interest.
- (7) Documents withheld: Board or State body documents on any deliberations regarding any matter in which a member of the Board has disclosed a material interest should not be made available to the Board member concerned.
- (8) Early return of documents: As it is recognised that the interests of a Board member and persons connected with him/her can change at short notice, a Board member should, in cases where he/she receives documents relating to his/her interests or of those connected with him/her, return the documents to the Secretary of the Board at the earliest opportunity.
- (9) Absent: A Board member should absent himself/herself when the Board is deliberating or deciding on matters in which that Board Member (other than in his/her capacity as a member of the Board) has declared a material interest. In such cases consideration should be given as to whether a separate record (to which the Board member would not have access) should be maintained. (NB. Board members who are designated directors should note the separate requirements under the Ethics in Public Office Acts 1995 and 2001 regarding a 'material interest').
- (10) Uncertainty: Where a question arises as to whether or not an interest declared by a Board member is a material interest, the Chairperson of the Board should determine the question as to whether the provisions of this Code apply. Where a Board member is in doubt as to whether he or she has an obligation under the Ethics in Public Office Acts 1995 and 2001, he or she should seek advice from the Standards in Public Office Commission under section 25 of the Ethics in Public Office Act 1995."

It is also noted that there is published and available Governmental guidance in respect of both the Ethics in Public Office Acts ('Guidelines on Compliance with the provisions of the Ethics in Public Office Acts') and in respect of Section 21 of the Protected Disclosures Act, referred to below. These Guidances are intended to assist public bodies in the performance of their functions and obligations under these Acts.

#### 4.3 **Protected Disclosures Legislation**

Also as referred to in the Code of Practice, Section 21 of the Protected Disclosures Act, 2014 requires that every public body shall establish and maintain procedures for the

making of protected disclosures by workers who are or were employed by the public body and for dealing with such disclosures. Written information in relation to those procedures must be provided to workers employed by the public body.

## **5 GIFTS AND OTHER BENEFITS**

A Director must not obtain personal advantage from any person dealing with or attempting to deal with the Company.

In particular, a Director must not give or accept any gifts, hospitality, preferential treatment or benefits which might affect or appear to affect the ability of the donor or the recipient to make independent judgement on business transactions or inducements where the value of such could make it appear that the donor is attempting to influence the Director to gain advantage. Any such gifts or inducements received shall be returned tactfully with the request that no gifts be forwarded in future. Any Director who is unsure whether he/she is in breach of this Code shall refer the matter to the Chairperson for direction, which decision shall be binding on that Director.

Board members are subject to the Criminal Justice (Corruption Offences) Act 2018 and should at all times be cognisant of the provisions relating to the obtaining of gifts, consideration, or advantage by public officials. The Ethics in Public Office Acts 1995 to 2001 also prohibits the retention of valuable gifts by office holders.

## **6 INTEGRITY**

The Company is committed to:

- 6.1 competing vigorously and energetically but also ethically and honestly;
- 6.2 conducting its purchasing activities of goods/services in accordance with best business practice;
- 6.3 ensuring a culture of claiming expenses only as appropriate to business needs and in accordance with good practice in the public sector generally;
- 6.4 ensuring that the Company's accounts/reports/statements accurately reflect the Company's business performance and are not misleading or designed to be misleading;
- 6.5 avoiding the use of the Company's resources or time for personal gain, for the benefit of persons/organisations unconnected with Company or its activities or for the benefit of competitors;
- 6.6 not acquiring information or business secrets by improper means;
- 6.7 complying with employment, equality and equal status legislation;
- 6.8 being fair in all its business dealings and valuing customers and treating all customers equally;
- 6.9 promote the development of a culture of 'speaking up' whereby workers can raise concerns regarding serious wrongdoing in the workplace without fear of reprisal;
- 6.10 placing the highest priority on promoting and preserving the health and safety of the Company's employees;
- 6.11 ensuring that community concerns are fully considered; and
- 6.12 minimising any detrimental impact of the Company's operations on the environment.

## **7 GENERAL CONDUCT**

The Company shall:

- 7.1 fulfil all regulatory and statutory obligations imposed on the Company as a corporate body and State owned entity;
- 7.2 comply with detailed tendering and purchasing procedures, as well as complying with prescribed levels of authority for sanctioning any relevant expenditure;
- 7.3 introduce controls to prevent fraud including adequate controls to ensure compliance with prescribed procedures in relation to claiming of expenses for business travel;
- 7.4 put in place a formal procedure whereby Board members may, where necessary, and in furtherance of their duties, through the office of the Company Secretary (who shall be entitled to consult with the Chairperson if he or she so desires) take independent professional advice at the reasonable expense of the Company.

Board members shall:

- 7.5 always be guided in their actions by the statutory and regulatory provisions to which they are subject as well as by their general responsibilities to act lawfully, faithfully, competently and in the best interests of the Company use their reasonable endeavours to attend all Board meetings and meetings of all Board Committees of which they are a member;
- 7.6 discharge their duties and responsibilities with the highest standards of integrity;
- 7.7 co-operate with internal audit in the internal audit process;
- 7.8 conform with procedures laid down by the Board in relation to conflict of interest situations, including in regard to acceptance of positions following employment and/or engagement by a State body that may give rise to the potential for conflicts of interest and to confidentiality concerns;
- 7.9 acknowledge the duty of all to conform to highest standards of business ethics; and
- 7.10 acknowledge the responsibility to be loyal to the Company and fully committed in all its business activities while mindful that the organisation itself must at all times take into account the interests of its shareholder.

## **8 MARKET ABUSE/INSIDER DEALING**

- 8.1 Dublin Port Company, as an issuer of senior bonds listed on the Global Exchange Market of Euronext Dublin (the "**DPC Bonds**"), comes within the ambit of the Irish market abuse regime namely the Market Abuse Regulation (EU 596/2014) and the Market Abuse Directive on criminal sanctions for market abuse (together the "**MAR Regime**") and as such Directors must at all times be cognisant of the restrictions and obligations which apply pursuant to this regime, and to the Listing Rules of the Global Exchange Market.
- 8.2 The fundamental matter underpinning the MAR Regime is the potential for "Insider Dealing" which arises in circumstances where sensitive information which could potentially impact the value of the DPC Bonds ("Inside Information") comes into the possession of individuals within the Company or connected with the Company and that person uses that information to directly or indirectly deal in the listed securities. Dealing in listed securities whilst in possession of Inside Information is a criminal offence.
- 8.3 Directors and Committee members are likely from time to time to have access to Inside Information and it is of utmost importance that they are at all times aware of and comply in full with the requirements of the MAR Regime.
- 8.4 The Company has taken the requisite steps to ensure that all Board members receive the necessary training to ensure they are fully aware of their obligations in this regard.

Furthermore, Dublin Port Company as the issuer of the DPC Bonds is also required to have and does have a number of processes and procedures in place around market abuse, all of which are contained in a MAR policy which is at all times available to Directors and Committee members.

- 8.5 Board and Committee members should never engage in personal account dealing which might in any way endanger or adversely affect the business or the reputation of the Company or which might conflict with or interfere with the performance of their duties to the Company. Board and Committee members who believe they are in possession of Inside Information should immediately consult the Company's MAR officer and follow the requisite procedure as outlined in the MAR policy.

## **9 RESPONSIBILITY**

This Code of Conduct should be circulated all Board members for their retention and each Board members, should acknowledge his/her receipt and understanding of same by signing the Declaration of Understanding at Appendix 1 herein.

## **10 FAILURE TO COMPLY WITH CODE OF CONDUCT**

Failure by a Director to comply with this Code of Conduct may result in his/her actions being referred to the Minister by the Chairperson and will make a director liable to such action (including a removal from the Board for failure to comply with Section 41 Harbours Act 2015 as deemed advisable by the Minister. The power of removal by the Minister and also the other circumstances in which a Director is disqualified from being a Director are set out in Article 46 of the Company's Articles of Association a copy of which is set out in Schedule 5 of this Code.

## **11 REVIEW**

This revised and amended Code of Conduct was adopted by the Directors of the Company on the 26 July 2024. It will be reviewed periodically as appropriate by the Board.

## **SCHEDULE 1**

### **ARTICLE 104 OF THE COMPANY'S ARTICLES OF ASSOCIATION**

#### **SECRECY**

Every Director, Chairperson, chief officer, auditor, trustee, member of a committee, officer, servant, agent, accountant, or other person engaged in the business of the Company, shall keep strictly secret and confidential, and shall not disclose to any person save as may be authorised by the Board, or by some person duly authorised by the Board, or use otherwise than solely for the benefit of the Company in the course of his or her duties, or as may be required by law, any confidential information or any books, documents or records relating to the business, affairs and accounts of the Company and its dealings with customers, suppliers and others; and shall if required by either the Minister or the Board execute an undertaking, in such form as the Board may determine, to perform all of the obligations contained herein, and to indemnify the Company against any loss occasioned as a result of his or her failure to do so. For the purpose of this Article, "Company" shall include all subsidiary and associated companies of the Company and "confidential information" shall mean that which is expressed to be confidential either as regards particular information or as regards information of a particular class or description.

## **SCHEDULE 2**

### **SECTION 33 OF THE HARBOUR'S ACT, 1996**

#### **Prohibition on Unauthorised Disclosure of Information**

- (1) A person shall not disclose confidential information obtained by him or her while performing duties as a director or member of staff of, or an advisor or consultant to, a company unless he or she is duly authorised to do so.
- (2) A person who contravenes subsection (1) shall be guilty of an offence.
- (3) In this section—

“confidential” means that which is expressed to be confidential either as regards particular information or as regards information of a particular class or description;

“duly authorised” means authorised by the company or by some person authorised in that behalf by the company.

## **SCHEDULE 3**

### **SECTION 41 OF THE HARBOUR'S ACT, 2015**

#### **Amendment of section 32 of the Harbours Act 1996 (disclosure by directors of certain interests)**

(1) The following is substituted for section 32 of the Act of 1996:

Where at a meeting of the directors of a company or a subsidiary any of the following matters arises, namely—

- (a) an arrangement to which the company or any subsidiary is a party or a proposed such arrangement,
  - (b) a contract or other agreement with the company or any subsidiary or a proposed such contract or other agreement,
  - (c) the giving, grant or renewal by the company or any subsidiary of a certificate, licence, authorisation or instrument of approval, or
  - (d) the revocation, cancellation, withdrawal, suspension or endorsement by the company or any subsidiary of a certificate, licence, authorisation or instrument of approval, then any director of the company or the first-mentioned subsidiary present at the meeting who otherwise than in his or her capacity as such a director has a material interest in the matter shall—
    - (i) at the meeting disclose to the company or the first-mentioned subsidiary the fact of such interest and the nature thereof,
    - (ii) neither influence nor seek to influence a decision to be made in relation to the matter,
    - (iii) absent himself or herself from the meeting or that part of the meeting during which the matter is discussed,
    - (iv) take no part in any deliberations of the directors relating to the matter, and
    - (v) not vote on a decision relating to the matter.
- (2) Where a material interest is disclosed pursuant to this section, the disclosure shall be recorded in the minutes of the meeting concerned and, for so long as the matter to which the disclosure relates is being dealt with by the meeting, the director by whom the disclosure is made shall not be counted in the quorum for the meeting.
- (3) Where at a meeting of the directors of a company or a subsidiary a question arises as to whether or not a course of conduct, if pursued by a director of the company or the subsidiary, would constitute a failure by him or her to comply with the requirements of subsection (1), the question may, subject to subsection (4), be determined by the chairperson of the meeting, whose decision shall be final, and where such a question is so determined, particulars of the determination shall be recorded in the minutes of the meeting.
- (4) Where, at a meeting of a company or a subsidiary the chairperson of the meeting is the director in respect of whom a question to which subsection (3) applies falls to be determined, then the other directors of the company or a subsidiary attending the meeting shall choose one of their number to be chairperson of the meeting for the purpose of determining the question concerned.
- (5) Where the Minister is satisfied that a director has contravened subsection (1), the Minister may, if he or she thinks fit, and with the consent of the Minister for Public Expenditure and Reform, remove that director from office, and, where a person is removed from office

pursuant to this subsection, he or she shall henceforth be disqualified from being a director of the company concerned or a subsidiary.

- (6) Section 231 of the Companies Act 2014 does not apply to a director of a company or a subsidiary.
- (7) Nothing in this section shall be taken to prejudice the operation of any rule of law restricting directors of a company from having any interest in contracts with the company.



## SCHEDULE 4

### CONFIDENTIALITY GUIDANCE

#### **Policy Guidance on Confidentiality for Directors of Dublin Port Company**

This guidance applies to non-executive and executive Directors of the Board of Dublin Port Company

(**the Company**) and is supplementary to:

- the Board's terms of reference;
- the Code of Practice for the Governance of State Bodies 2016 (the **Code of Practice**);
- the Director's Code of Conduct dated 24 April 2020;
- Article 104 of the Company's Articles of Association
- Section 33 of the Harbours Act 1996;
- and statutory requirements including the Companies Act 2014.

In the event of a conflict or inconsistency between this guidance, the Code of Practice and legislation, the legislative provisions shall prevail.

#### **Confidentiality obligations during the term of a Director's term as a Company Board member**

As a Director of the Company, you have fiduciary duties to always act in the best interests of the Company under the Companies Act 2014. This includes keeping all matters pertaining to the Company confidential, save as approved by the Company in the course of business. All papers prepared for a Board meeting and matters discussed at Board meetings (including any sub-committee groups as may be established) are strictly confidential and shall remain so. If Board members other than the Chief Executive are asked to comment to the press or media, they shall liaise with the Chairperson as to whether comment can be made in line with Company strategy and policy. No such statements shall be made without approval of the Chairperson.

Board members shall take all necessary steps to ensure the confidentiality and security of Board papers and information, including technical and physical security measures, such as encryption on devices where Board information is stored, and where a Board member has hard copy documentation, ensures that these documents are locked away securely when not in use and shredded where there is no longer a need for them. Board members agree to take data protection and cyber security training to mitigate the risk of inadvertent disclosure of confidential information and/or Board business.

#### **Confidentiality obligations on the expiry of a Director's term**

A Director's duty of confidentiality survives the termination of the appointment as a Director. Directors agree to maintain the confidentiality of all Board business and agree that on the date of expiry, termination or resignation of their Directorship, that all documentation pertaining to Board business is returned to the Company Secretary at that time and any hard copy documentation is shredded. Board members agree that following the expiry of their Directorship, they will not make public comments to press or social media about Company business without first liaising with the Chairperson to seek approval for such media commentary whether on their own behalf or in response to queries.

If you have any queries regarding this guidance, please contact the Chairperson.

## **SCHEDULE 5**

### **ARTICLE 46 OF THE ARTICLES OF ASSOCIATION**

#### **DISQUALIFICATION OF DIRECTORS**

- (1) The office of Director shall be vacated if -
- (b) the Director is adjudged bankrupt in the State or in Northern Ireland or Great Britain or makes any arrangement or composition with his or her creditors generally; or
  - (c) the Director becomes prohibited from being a Director by reason of Part 14 of the Companies Act; or
  - (d) the Director becomes of unsound mind; or
  - (e) the Director resigns his or her office by notice in writing to the Company and to the Minister; or
  - (f) the term of office of the Director expires; or
  - (g) the Director is convicted of an indictable offence (other than an offence under the Road Traffic Act, 2014, or any Act amending it) or any offence under the 1996 Act.
  - (h) the Director is for more than 6 months absent without permission of the Directors from meetings of the Directors held during that period; or
  - (i) the Director is removed from office by the Minister, with the consent of the Minister for Public Expenditure and Reform, under Article 37(b); or
  - (j) the Director is nominated as a member of Seanad Eireann; or
  - (k) the Director is elected as a member of either House of the Oireachtas or to the European Parliament; or
  - (l) the Director is regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997, as having been elected to the such Parliament to fill a vacancy; or
  - (m) the Director, being an Employee Director ceases to be employed by the Company or becomes so employed for less than 8 hours a week.
- (2) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a member of the European Parliament, or entitled under the Standing Orders of a local authority to sit as a member thereof shall, while so entitled, be disqualified from becoming a Director of the Company.
- (3) A Director who is removed from office by the Minister for failure to comply with the requirements of section 32(1) of the 1996 Act, as amended by Section 41 of the Harbours act 2015 shall thenceforth be disqualified from being a Director of the Company or a subsidiary.

## **APPENDIX 1**

### **DECLARATION OF UNDERSTANDING**

I have read and noted the Dublin Port Company Code of Conduct for Board Members and undertake to adhere to the principles set out herein.

**Signed:** \_\_\_\_\_

Director  
Dublin Port Company

**Date:** \_\_\_\_\_

Please insert your name in block capitals below

**Name:** \_\_\_\_\_

Please return this signed Declaration of Understanding to the Company Secretary of Dublin Port Company.