CONSTITUTION OF THE NEW ZEALAND CARGO OWNERS COUNCIL INCORPORATED

Incorporated under the Incorporated Societies Act 2022

1. NAME

The name of the Society shall be NEW ZEALAND CARGO OWNERS COUNCIL INCORPORATED ("Council").

2. PURPOSE

The purpose of the Council is to:

(a) Promote and protect the interests of principal shippers of large volume cargoes;

(b) Promote, support, or oppose legislative or other measures affecting the interests of principal shippers;

(c) Monitor developments in matters deemed relevant to the Council's interests and advise and assist members in actions which may be required to protect their interests;

(d) Cooperate with other organisations that share similar objectives;

(d) Acquire or dispose of property as needed to support its purpose;

(e) Do all such other lawful things as are incidental or conducive to the attainment of the above purposes.

The Council shall operate as a not-for-profit organisation. Any income or assets must be used to advance the Council's purpose and not for the private benefit of any member.

3. INTERPRETATION

In this constitution "The Act" means the Incorporated Societies Act 2022.

"Council" means New Zealand Cargo Owners Council Incorporated.

"Principal Shipper" means a cargo owner or organisation of cargo owners that individually or collectively ships not less than 75,000 freight tonnes per annum or earn $100 million revenue from import or export activity and that directly or indirectly pays or bears the costs relating to transportation.

"The Secretary" means the person for the time being performing the duties of the office of Secretary of the Council.

"Writing" includes printing, emailing or any other usual substitutes for writing.

"Member" includes a designated representative of a member.

"Affiliate" includes a designated representative of an Affiliate

References to members do not include Affiliates.

Words importing a person but not importing a natural person include a firm company or any other body or authority established by or under an act of Parliament.

4. MEMBERSHIP

The Council must have at least 10 members. Members must be principal shippers, who individually or collectively:

- Ship not less than 75,000 freight tonnes per annum; or
- Earn at least NZ$100 million in revenue from import/export activities.

The Committee has authority to allow membership that falls outside this criteria in specific circumstances (to be determined on a case x case basis).

New members must apply in writing, signed by or on behalf of the prospective member, and are admitted by resolution at a meeting of the Executive Committee (¾ majority).

The Executive Officer will maintain a register of Members, containing: the company name, member representative, contact details, date of becoming a member. It is the responsibility of each member representative to provide the Executive Officer with their current contact details including any change to the designated member representative.

5. AFFILIATES

Non-qualifying parties in allied businesses may become Affiliates. Prospective Affiliates must apply in writing, signed by or on behalf of the prospective Affiliate, and are admitted by resolution at a meeting of the Executive Committee (¾ majority). Affiliates have no voting rights.

The Executive Officer will maintain a register of Affiliates containing: the company name, affiliate representative, contact details, date of becoming an Affiliate. It is the responsibility of each Affiliate representative to provide the Executive Officer with their current contact details including any change to the designated affiliate representative.

6. MEMBERSHIP FEES

Annual membership fees shall be set by the Council at a general meeting (3/4 majority). All membership fees are payable in advance of the new financial year.

7. TERMINATION OF MEMBERSHIP

Membership may cease through resignation, failure to pay the membership fee after it has become due or conduct harmful to the Council. Members have the right to provide explanations before removal. Former members remain liable for outstanding dues.

8. DISPUTE RESOLUTION

All disputes between members or between members and the Council shall be resolved as follows:

a) Attempt informal negotiation;
b) If unresolved, refer to an independent mediator;
c) The mediator's decision is not binding unless agreed by all parties.

[The NZCOC detailed dispute resolution process is appended]

9. OFFICERS

The Council's governing body consists of the Chairperson and the Executive Committee (the Committee). Each member of the governing body is an Officer of the Council.

All Officers must consent in writing and certify that they are not disqualified from being an Officer according to the rules in the Act.

In addition, a secretary and an accountant shall be appointed.

Every member of the Council who has an interest in the funds of the Council in terms of these rules shall be entitled to inspect the accounting records of the Council.

Officers must:

a) Act in good faith and in the Council's best interests;
b) Exercise powers for proper purposes only;
c) Comply with the Act and the Constitution;
d) Exercise reasonable care and diligence
e) Not create a substantial risk of serious loss to creditors
f) Not incur an obligation the officer doesn't reasonably believe the Council can perform

10. APPOINTMENT / TERM OF OFFICERS

The Chair, Deputy Chair (or Deputies) and Committee are elected at the AGM (3/4 majority). Council requires a minimum of 3 committee members in addition to the Chairperson. The majority of Committee members shall be representatives of member companies.

The Chair, Deputy and committee members shall hold office until retirement or removal from office or election of successors to office. In the event of the Chair becoming vacant following the Annual General Meeting in any year or preceding an Annual General Meeting by more than one month, a special General Meeting shall be held as soon as possible to elect or appoint a replacement.

The Committee may appoint a member to fill a casual vacancy on the Committee until the next General or Annual Meeting (whichever date is closest).

11. REMOVAL OF OFFICERS

An Officer of the Council may be removed from office if found to have breached any of the duties in section 9.

In the event that there is disagreement regarding a breach, the Council's Dispute Resolution process will be invoked.

12. COMMITTEE RESPONSIBILITIES

It is the duty of the Committee and Officers generally to conduct the affairs of the Council, to keep usual and proper books of accounts and other records of the business of the Council and to notify members of intended meetings and the business to be transacted, to keep proper minutes of its meetings and to prepare and submit to the annual general meeting a report balance-sheet and statement of accounts for the preceding year.

Meetings of the Committee may be convened at such times and places as the Chair (or acting Chair) shall appoint. Meetings require a quorum of 4. The Chair (or acting Chair) shall have a casting vote if there is an equality of votes.

Where any business at any meeting of the Committee involves matters that the Committee considers should be treated as confidential to any member or otherwise then the minutes of that meeting shall record the Committee's decision but shall not record or disclose any related confidential matters.

Committee members are required to act in an impartial manner where matters pertaining to members sectional interests are concerned, to represent Council interests at national or local levels in accordance with majority decisions of Council meetings and to ensure that all administrative functions are carried out generally in accordance with the requirements of the Constitution.

The Committee will keep and maintain an interests register for disclosures made by members and will abide by the rules set down in the 2022 Act regarding conflicts of interest.

13. DEDICATED CONTACT PERSON

The primary dedicated contact person for the Council shall be the Executive Officer.

The Executive Officer is appointed by the Executive Committee.

The secondary contact persons shall be the Chair.

The Chair is elected by majority vote of Council members.

The names and contact details will be provided to the Registrar of Incorporated Societies and updated as required within 20 working days of any change.

14. ALTERATION OF RULES

These rules may be altered, added to rescinded or otherwise amended by a resolution by a ¾ majority of those present at a Special General Meeting of which 14 days notice has been given.

The meeting notice shall set out in writing the proposed amendment and its purpose.

Duplicate copies of every such rule change shall be delivered to the Registrar of Incorporated Societies in accordance with the requirements of the Incorporated Societies Act 2022 and the amendments shall take effect on being recorded by the Registrar of Incorporated Societies.

15. ANNUAL GENERAL MEETING

The annual general meeting shall be held every year at a date and at a time and place to be fixed by the Chair (or Committee) no more than 15 months since the previous Annual General Meeting, and within 6 months of the Council's balance date.

The business to be transacted at the meeting shall be:

(a) To receive from the Committee a report balance sheet and statement of accounts for the preceding year and an estimate of the receipts and expenditure of the current year.

(b) To fill the vacancies in the Committee and to appoint an auditor for the ensuing year.

(c) To decide on any resolution that has been submitted to the meeting.

(d) To elect delegates/representatives who shall be entitled to represent the Council in matters affecting the interests of members of the Council.

There shall be a minimum of 20 working days notice in writing of the meeting date, venue and purpose.

16. SPECIAL GENERAL MEETING

The Chair (or Committee) may at any time for any special purpose call a Special General Meeting. Members shall be advised in writing of the date, venue and purpose of the meeting with a minimum of 14 days notice.

17. ORDINARY GENERAL MEETING

An Ordinary General Meeting shall be held at such times and places as the chair (or Committee) determines for the purposes of transacting the business of the Council.

Members shall be advised in writing of the date, venue and purpose of the meeting with a minimum of 14 days notice.

18. MEETING PROCEDURES

All notices of Meetings and Notices of Motions shall be served in writing (email) to the designated member representative for each member company, according to the contact details provided for the member register.

Notices of Motion shall be notified in writing (email) no less that 5 days prior to the meeting. Resolutions may only be passed at general meetings and require ¾ majority vote.

At all general meetings every member shall be entitled to one vote on every motion. Voting can be exercised in person, remotely (electronic participation) or proxy (in writing). The Chair (or Acting Chair) has the casting vote if there is an equality of votes.

Four members shall constitute a quorum. If within half an hour after the time appointed for the meeting a quorum is not present, the meeting, shall be dissolved and postponed to a subsequent date as determined by the Chair.

19. CONTROL AND USE OF FUNDS

All moneys received by or on behalf of the Council shall be paid to the credit of the Council bank account promptly. All withdrawals require two signatories (the Chair and a Deputy Chair).

The Council may from time to time invest and reinvest the whole or any part of its funds not required for the immediate business of the Council.

The Council shall in addition to the other powers vested in it have a power to borrow or raise money by the issue of debentures bonds mortgages or any other security founded or based on all or any of the property and/or rights of the Council or without any such security and upon such terms as to priority and otherwise as the Council shall think fit, but these powers require a resolution of the Council passed in special general meeting.

The accounts of the Council shall be reviewed annually and filed with the Registrar within 6 months of the balance date.

Every member of the Council who has an interest in the funds of the Council in terms of these rules shall be entitled to inspect the accounting records of the Council.

20. REGISTERED OFFICE AND RECORDS

The Council shall maintain a registered office and a register of Officers. Notice of changes shall be sent to the Registrar within 20 working days.

21. DISPOSITION OF SURPLUS ASSETS

In the event of the Council being wound up and subject to the audit and in accordance with the Incorporated Societies Act 2022, surplus assets shall be distributed to a not-for-profit organisation with similar purposes, as approved by the members in a general meeting, in accordance with section 165 of the 2022 Act.

NEW ZEALAND CARGO OWNERS COUNCIL DISPUTE RESOLUTION PROCESS

(Incorporated into the Constitution of the New Zealand Cargo Owners Council

1. Purpose

This process is established to resolve disputes between:
a. Members of the Council; and/or
b. Members and the Council (including the Executive Committee),
in a manner that is fair, transparent, and consistent with the principles of natural justice, as required under the Incorporated Societies Act 2022.

2. Application

This process applies to all disputes arising under the rules of the Constitution or in relation to the Council's activities, including conduct alleged to breach the Council's constitution or code of conduct.

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3. Initiating a Complaint

3.1 A dispute may be initiated by a written complaint submitted to the Executive Committee. The complaint must include:

- The name of the complainant;
- The name of the member or members the complaint is against (if applicable);
- A description of the issue or alleged conduct;
- Any relevant evidence.

3.2 The Executive Committee will acknowledge receipt of the complaint within 7 days and must determine whether the complaint:

- Falls within the scope of this dispute resolution process; and
- Is not frivolous or vexatious.

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4. Initial Resolution Attempt

4.1 Where appropriate, the Executive Committee may seek to resolve the dispute informally through mediation or facilitated discussion between the parties.

4.2 If informal resolution is not possible or appropriate, the Executive Committee must refer the matter to a formal resolution process under clause 5.

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5. Formal Resolution Process

5.1 Notification

The parties to the dispute must be:

- Notified of the details of the complaint;
- Given a reasonable opportunity to respond in writing and/or in person;
- Advised of their rights under this process.

5.2 Investigation

The Executive Committee (or a sub-committee or independent person appointed by the Committee) may investigate the complaint by:

- Interviewing parties and witnesses;
- Considering documentary and other evidence.

In a situation where a complaint is brought against the Executive Committee an Independent investigator shall be appointed.

5.3 Hearing

If necessary, a hearing will be held. All parties must be:

- Given reasonable notice of the hearing;
- Allowed to present evidence and call witnesses;
- Allowed to have a support person present.

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6. Decision

6.1 The Executive Committee (or appointed decision-maker) will:

- Make a decision based on the evidence provided;
- Communicate the decision in writing to all parties, including reasons.

6.2 Possible outcomes may include:

- Dismissal of the complaint;
- An apology;
- Mediation or other restorative action;
- Suspension or termination of membership (in accordance with the rules of the Council).

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7. Appeal

7.1 A party may appeal the decision by notifying the Executive Committee in writing within 14 days of the decision being issued.

7.2 The appeal will be heard by a different sub-committee or independent panel not involved in the original decision.

7.3 The appeal decision is final and binding.

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8. Record Keeping

The Council will maintain a confidential record of all disputes, decisions, and actions taken for at least 7 years.

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9. Natural Justice

At all times, the Society will ensure:

- All parties are treated fairly and impartially;
- Decisions are based on evidence;
- Conflicts of interest are avoided;
- Reasonable timeframes are followed.