

**ARTICLES OF ASSOCIATION
OF
HALIFAX EMPLOYERS ASSOCIATION/
ASSOCIATION DES EMPLOYEURS HALIFAX**

("ASSOCIATION")

28 April 2009

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**ARTICLES OF ASSOCIATION
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1. SEAL

The seal of the Association shall be in such form as may be prescribed by the Board and shall have the name of the Association endorsed thereon. Each of the officers specifically referred to in Article 7.1 and any other officer or any director of the Association designated by the Board shall have authority to affix the seal of the Association to any document.

2. MEMBERS

2.1 Conditions of Membership

2.1.1 Membership in the Association shall be composed of the following categories of members:

CATEGORY I Owners and/or operators and/or agents of vessels conducting business at the Port of Halifax.

CATEGORY II Employers of labour at the Port of Halifax belonging to unions with whom the Association is the authorized bargaining party.

Corporations, partnerships, firms, associations and other bodies applying for membership must be incorporated or organized or licensed under or otherwise be governed by or subject to the laws of Canada or one of the Provinces of Canada.

2.1.2 Except in the case of the applicants for the incorporation of the Association, admission of prospective members shall be subject to the prior approval of the Board.

The Board may prescribe a form to be used in applying for membership in the Association and shall be empowered to determine from time to time the category to which any member shall belong.

2.1.3 Every corporation, partnership, firm, association or other body which may be, or become a member of the Association shall, forthwith upon becoming a member and thereafter on an annual basis, designate in writing an individual together with up to two alternate individuals, to represent such corporation, partnership, firm, association or other body and to act in its name in respect of its membership in the Association. Such individual or alternate individual shall be a director, officer, executive employee or manager of such corporation, partnership, firm, association or other body. Any such designation may be revoked in writing and another individual and alternate individual designated to represent such corporation, partnership, firm, association or other body.

Members who do not designate a representative, who is resident in Nova Scotia, shall have a non-voting membership and shall not be eligible to be a member of any committee of the Association, or the Board of Directors or be a Trustee.

2.1.4 Every member of the Association shall be bound by and conform to the Articles, rules and regulations of the Association and all decisions of the Association and of its Board or related agreements entered into by or on behalf of the Association, containing provisions as to rates of pay, hours of work or other terms and conditions of employment of labour. Every member of the Association shall be deemed to have authorized the Association to bargain collectively on its behalf, and to enter into any agreement with any trade union or trade unions or other representative of employees engaged in the loading or unloading of ships and related services.

2.2 Member's Right to Vote at Members' Meetings

2.2.1 Each voting member shall, subject to the following provisions of this Article 2.2, have one (1) vote at all Annual General Meetings and Special General Meetings of the members of the Association.

2.2.2 Members affiliated with other members shall be deemed to form a group of affiliated members and one vote only may be exercised by each such group of affiliated members. The word "affiliated" shall, in this Article 2.2, mean members controlled, directly or indirectly, by the same person and shall include any member which exercises such control. For the purposes of this Article 2.2, a member shall be deemed to be controlled by another member or by two or more members if shares or voting rights of the first-mentioned member carrying fifty percent (50%) or more of the votes for the election of its directors are held by or for the benefit of such other member or members.

2.2.2.1 Other than as specifically set out herein, no affiliated company (member) representation is permitted on any boards or committees of the Association or in voting at any meeting for any purpose.

2.2.3 All prospective members of the Association shall be obliged to indicate in writing to the Secretary of the Association, prior to admission to membership, full particulars of affiliation with all members, irrespective of category, and shall, while they continue to be members, be obliged to advise the Secretary in writing of any modification in such affiliation or formation of an affiliation. The Secretary shall have the right at any time to request and require a member to confirm and/or reconfirm particulars of affiliation as aforesaid. No member of a group of affiliated members may exercise his or its right to vote unless and until such time as all members of the group of affiliated members have so advised the Secretary. All members of a group of affiliated members shall be obliged to file with the Secretary of the Association prior to each meeting of members, a statement confirming which one of the members of the group of affiliated members will vote. No member of a group of affiliated members may exercise his or its vote unless and until such time as all members of the group of affiliated members shall provide the aforesaid statement in writing to the Secretary.

2.3 Fees, Charges and Assessments

2.3.1 The annual membership charges, entrance fees, dues, levies and assessments payable by members shall be determined from time to time by the Board, and shall be such amount or

amounts as shall be reasonably necessary to permit the Association to cover its general expenses, as well as special expenses incurred in the pursuit of its functions. The Board shall also determine the basis for the calculation of the said charges, fees, dues, levies or assessments or any portion thereof.

2.3.2 All administrative and labour costs and any amounts which the Association has committed itself to pay or guarantee on behalf of its members or others provided for or arising out of any collective agreement or subsidiary or related agreements entered into by or on behalf of the Association with any trade union or trade unions or other representative of employees engaged in the loading or unloading of ships and related services shall be paid on behalf of the members by the Association which costs and amounts the Association shall include in the charges, fees, dues, levies or assessments of the members.

2.3.3 The Board may, in its discretion, require that any member furnish to the Association adequate surety or guarantee to secure the payment of the charges, fees, dues, levies or assessments payable by such member. The President shall only provide labour to non-member lines or agents if the President is satisfied with the security provided by such non-member lines or agents for payment therefor. The President shall not provide labour to a non-member contractor.

2.3.4 An assessment letter, approved by the Business Committee, shall be circulated to all members by the President from time to time and shall be binding on all members. An assessment letter may, without limitation, prescribe, impose implement, amend, replace and promulgate a credit policy or policies, all as further provided in Article 2.3.6;

2.3.5 For the purposes of assessments only, any member classified as a Category II member who also has Category I type operations shall, for the purposes of their Category I type activities, be treated as if they are a Category I member.

2.3.6 The Association may from time to time prescribe, impose, implement, amend, replace and promulgate a credit policy or policies comprised of or including fines, charges, interest and penalties to be imposed on any member or any vessel, vessel owner, vessel operator, agent, charterer, slot charterer or similar person, whether or not a member of the Association, which is in default of payment of any sum to the Association, including without limitation the fees prescribed or referred to in Article 17(18) or in any assessment letter(s) as more particularly referenced in Article 2.3.4. Penalties may include, but are not restricted to, the withholding of labour by the Association, including without limitation the withholding of labour from vessels carrying cargo of the party in default together with cargo of other parties not in default. Such credit policy or policies of the Association, and the fines, charges, interest and penalties provided for therein, may be prescribed, imposed, implemented, amended, replaced or promulgated (A) in one or more assessment letters as more particularly referenced in Article 2.3.4, and (B) notwithstanding any agreement or contract between or among members or between one or more members and any other person or persons.;

2.4 Fines, Suspension, Expulsion and Resignation

2.4.1 The Board may impose a fine on any member or suspend or expel any member from membership for non-observance of the Articles or any rules or regulations made by the Association or the Board or for non-payment of charges, fees, dues, levies and assessments. At least five (5) days' notice in writing of the time and place of the meeting at which the matter is to

be considered by the Board shall be given to the member concerned, or such lesser time as the Board may decide in view of the circumstances of the matter, which notice shall contain a statement of the matter to be considered by the Board.

The member concerned shall have the right to appeal the decision of the Board to the members at their next Annual or Special General Meeting which may be done by notifying the Association by telex, by telecopier or by registered mail addressed to the Secretary at the head office of the Association, within fifteen (15) days of notification of the decision of the Board, of such intent to appeal and of the grounds for such appeal, in which case the procedure set forth in Article 2.4.2 shall apply and the application of the decision of the Board shall be suspended until such appeal shall have been heard and decided. The next Annual or Special General Meeting of members at which such appeal is to be considered shall be held within thirty (30) days following receipt of the member's notice of appeal. The member concerned shall not be entitled to vote at such meeting. The decision of the members shall be final and binding upon the appealing member.

2.4.2 The members may impose a fine on any member or suspend or expel any member from membership for conduct of such member, or any member affiliated with such member, inimical to the Association's best interests. The word "affiliated" shall, for the purposes of this Article 2.4.2, have the meaning indicated in Article 2.2.2. The member concerned shall be given notice in writing of the time and place of the meeting at which the matter is to be considered by the members, which notice shall contain a statement of the matter to be considered at such meeting. The notice shall be given at least seven (7) days before the date of the meeting or such lesser time as the Board may decide, having regard to the circumstances of the matter. The member concerned shall not be entitled to vote at the said meeting. The decision of the members shall be final and binding upon the member concerned.

2.4.3 A member may resign from the Association by sending to the Association, by telecopier or by registered mail, written notice to that effect. However, such resignation shall not become effective until the expiration of ninety (90) days from the date upon which such notice was received by the Association and until all sums of money due from the member to the Association have been paid. Furthermore, no such resignation, nor any other cessation of membership, shall release the member from any of such member's liability under any agreements, contracts or obligations entered into by the Association and by which the said member is bound during the currency of the same, nor from any guarantee or obligation pursuant to which the Association or the members may have to guarantee or fund any potential or future obligation. Notwithstanding the foregoing, no member shall have the right to resign during the continuance of a strike or lockout of his or its employees or of employees of any member affiliated with the said member or during any period of negotiations by the Association for a collective agreement on behalf of all or certain of its members, including the said member or any member affiliated with the said member. The word "affiliated" shall, for the purposes of this Article 2.4.3, have the meaning indicated in Article 2.2.2.

2.4.4 Any member ceasing to be qualified for membership in the Association for any reason shall cease to be a member of the Association, upon a resolution of the Board to that effect, provided that the member concerned may appeal to the members of the Association in the same manner as set forth in Article 2.4.1.

2.4.5 No fine shall exceed \$1,000.00 dollars. The maximum amount may only be altered subject to provisions of Article Twelve.

3. MEETINGS OF MEMBERS

3.1 Annual General Meetings

3.1.1 The Annual General Meeting of the members of the Association shall be held at the head office of the Association or elsewhere in Nova Scotia as the Board may determine on such date in each year, not later than the 31st day of March, as the Board may determine.

3.1.2 At least thirty (30) days' prior written notice shall be given to each member of each Annual General Meeting of members.

3.2 Special General Meetings

3.2.1 Special General Meetings of the members of the Association may be called at any time by the Chairman of the Board or by the Board, and shall be called by the President when requisitioned by at least five (5) members or five percent (5%) of the members, whichever is greater. The requisition must state the objects of the meeting and must be signed by the requisitionists and filed with the President of the Association and may consist of several documents in like form each signed by one or more requisitionists. If the President does not within ten (10) days from the date of the filing of the requisition proceed duly to call a meeting, the requisitionists may themselves call a meeting, but any meeting so called shall not be held after the expiration of three (3) months from the said date. Any meeting called under this Article 3.2.1 by the requisitionists shall be called in the same manner or as nearly as possible as that in which meetings are to be called by the Chairman of the Board or by the Board.

3.2.2 At least twenty-one (21) days' prior written notice shall be given to each member of each Special General Meeting of members, specifying the place, day and hour of such meeting and the business to be transacted, and, with the consent in writing of all the members, may be convened by shorter notice and in any manner they think, or if all the members are present at a meeting, either in person or by proxy, notice of the time, place and purpose of the meeting may be waived.

3.2.3 Where it is proposed to pass a special resolution, the two meetings may be convened by one and the same notice, and it shall be no objection to such notice that it only convenes the second meeting contingently upon the resolution being passed by the required majority at the first meeting.

3.3 Quorum and Voting

3.3.1 The quorum for meetings of members shall consist of:

(a) in the case of any meeting at which a resolution to alter the Memorandum of Association or to amend, modify, alter or repeal these Articles of Association, or any part thereof, is to be considered, fifty percent (50%) plus one (1) of the voting members **either** present in person, by proxy or represented by designated representatives in the case of corporations, partnerships, firms, associations or other bodies and entitled to vote at any Annual or Special General Meeting of members; and

(b) in the case of all other meetings of members, thirty-three and one-third percent (33%) of the voting members, **either** present in person, by proxy, or represented by

designated representatives in the case of corporations, partnerships, firms, associations or other bodies and entitled to vote at any Annual or Special General Meeting of members.

Should a quorum not be present at any meeting of members, those members present or represented and entitled to be counted for the purpose of forming a quorum shall have the power to adjourn the meeting, from time to time, without notice other than an announcement at the meeting until a quorum shall be present. At any such adjourned meeting, provided a quorum is present, any business may be transacted that might have been transacted at the meeting adjourned.

3.3.2 Subject to the laws governing the Association and to these Articles, at all meetings of members of the Association, every question shall be determined by a majority of the votes cast by the members present or represented and entitled to vote.

3.3.3 A resolution, including a special resolution, assented to and adopted in writing and signed by every member, shall be of the same force and effect as if it had been passed at a meeting of the members.

3.4 **Eligibility Requirements**

3.4.1 The minimum requirement for a member to be eligible to serve on the Board shall be determined, at the time of appointment to the Board, on the basis of the following minimum qualifications earned during latest completed calendar year:

CATEGORY I: Must, in the Port of Halifax, have handled either 10 vessel calls, on which assessment tonnes were levied, each employing members of the certified trade unions with which the Association negotiates as employer representative or having handled minimum 10,000 assessment tonnes of cargo by such labour.

CATEGORY II: Must, in the Port of Halifax, have accumulated a minimum of two thousand person hours of longshoring work using employee services of members of the certified trade unions with which the Association negotiates as employer representative, and the member employs individuals in the longshoring industry at the Port of Halifax, who are employees for whom the Canada Labour Relations Board has certified a bargaining agent and such employer is represented by the Association as its authorized bargaining representative.

3.5 **Chairman of Meetings**

The Chairman of the Board (if any) or in his absence, the Vice-Chairman of the Board (if any) shall preside at all meetings of members. If there is no Chairman of the Board or Vice-Chairman of the Board, or if they are absent or decline to act at any meeting of members, the members present may choose one of their number to act as Chairman of the meeting. The Chairman at any meeting of members shall be entitled to a vote. In the case of an equality of votes, the question shall be deemed defeated and the Chairman shall have no second or casting voting in any circumstances.

4. BOARD

4.1 General Powers of Directors

The directors of the Association shall manage and administer the affairs of the Association in all things and make or cause to be made for the Association, in its name, any contract which the Association may lawfully enter into and generally may exercise all such other powers and do all such other acts and things as the Association is authorized to exercise and do and as are not required to be exercised by the members at General Meetings.

Without in any way derogating from the foregoing, the directors are expressly empowered, from time to time to purchase, lease or otherwise acquire, alienate, sell, exchange or otherwise dispose of and deal in property of all kinds and any right or interest therein for such consideration and upon such terms and conditions as they may deem advisable; to prescribe such rules and regulations not inconsistent with these Articles relating to the management and operation of the Association as they deem expedient; and to authorize and make expenditures for the purposes of furthering the objects of the Association and to the purposes of furthering the objects of the Association as they deem expedient; and to delegate by resolution to any officer or officers of the Association the right to employ and pay salaries to employees.

4.2 Appointment of Directors

Except for the initial directors, who may be appointed by the applicants for the incorporation of the Association, each director shall (except as herein otherwise provided) be appointed in the manner specified in Article 4.3 at the Annual General Meeting of the members to hold office until the appointment of his successor unless he shall resign or his office become vacant by death, removal or other cause.

All acts done by any meeting of directors or by any person acting as a director, so long as his successor shall not have been duly appointed, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of the directors or the person acting as aforesaid or that they or any of them were disqualified, be as valid as if the directors or such other person, as the case may be, had been duly appointed and were or was qualified to be directors or a director of the Association.

4.3 Qualifications of Directors

All the directors must be members of the Association or designated representatives of corporations, partnerships, firms, associations or other bodies which are members of the Association. Members shall appoint directors at the Annual General Meeting of the Association as follows:

- CATEGORY II:** One director appointed by each of the Category II members except those below minimum qualifications as per Article 3.4.
- CATEGORY I:** 1) One director appointed by the largest carrier or agent representing the largest carrier determined by cargo assessment tonnes.

- 2) One director appointed by the 2nd largest carrier or agent representing the 2nd largest carrier determined by cargo assessment tonnes.
- 3) One director appointed by the 3rd largest carrier or agent representing the 3rd largest carrier determined by cargo assessment tonnes.
- 4) One director appointed by the largest conventional carrier or agent representing the largest conventional carrier, determined by cargo Assessment Tonnes, and not otherwise represented under #1,2,3 above, and where the majority of the cargo tonnes handled is handled outside of a container terminal operation.
- 5) One director appointed by largest general agent determined by cargo assessment tonnes, who is otherwise not represented above.

In the event that the individuals appointed in Category I, subsections 1-5 named above cannot serve, the next largest carrier or agent may be appointed in substitution.

Cargo tonnes referred to in Category I, subsections 1-5 are assessment tonnes handled in the Port of Halifax and at Autoport in the most recently completed calendar year.

Each year the Association's tonnage records for the preceding calendar year will be used to select directors.

The President will scrutinize the tonnages and the decision of the President will be final as to the ranking of the Category I members for their selection as members of the Board for the forthcoming year. If any member of the Board challenges the ranking of a Category I member the Board will have the matter arbitrated by a third party auditor selected by the Board.

All members of the Association must be advised of the proposed slate of directors at least twenty-one (21) days prior to the meeting at which they are to be appointed.

Those below minimum qualifications in Article 3.4 shall not be eligible to serve it being understood that eligibility to serve based on the minimum qualifications in Article 3.4 shall be determined at the time of appointment.

4.3.1 It is intended that the Category I and Category II members shall at all times have an equal number of total votes on the Board.

4.3.1.1 If at any time there is an unequal number of directors on the Board representing the Category I and Category II members, the weight of votes among such directors shall be allocated in such a way that:

- (1) Each of Category I and II shall have equal total number of votes;
- (2) Each of the directors in each of the two categories shall have an equal proportion of vote in their category; and

- (3) Exhibit A attached to these Articles will give a guideline as to how this allocation will be calculated.

4.3.2 Any member who has not paid or caused to be paid any charges, fees, dues, levies or assessments for a period of two (2) consecutive months from the due date for payment shall have no right to be or to continue to be, or to have or to continue to have a designated representative as, a director of the Association, or to be or to continue to be, or to have or to continue to have a designated representative as, a member of any committee of the Association.

4.4 **Quorum**

4.4.1 The quorum for all meetings of the Board shall consist of at least 50% in number of the directors.

4.5 **Voting**

At any meeting of the Board, all questions shall be decided by a majority vote. The Chairman shall have no second or casting vote. In the case of an equality of votes the question shall be deemed defeated.

4.6 **Meetings and Notice of Meetings**

4.6.1 The Board may meet for the dispatch of business, call, adjourn and otherwise regulate their meetings as they shall see fit. Meetings of the Board may be called by the Chairman of the Board or any two (2) directors. At least seven (7) days' notice of directors' meetings shall be sent in writing to each director. Directors' meetings may be called in the event of an emergency by notice not less than three (3) hours before the meeting is to be held and such notice may be given verbally, by telephone, with confirmation in writing. No formal notice shall be necessary if all directors are present at the meeting or waive notice thereof in writing. The Chairman of the Board, if any, or in his absence or failure to act, the Vice-Chairman of the Board, if any, or in his absence, or failure to act, the person chosen for such purpose by the directors present, shall preside at all meetings of directors.

4.6.2 Any member shall have the right to include an agenda item on and appear before a meeting of the Board, upon giving the Secretary two days notice thereof.

4.7 **Resolutions in Writing - Meeting by Telephone**

4.7.1 A resolution assented to and adopted in writing and signed by every director, though not passed at a meeting, shall be of the same force and effect as if it had been passed at a meeting of the Board.

4.7.2 A director may, for emergency meetings as described in Article 4.6 and if all of the directors consent, participate in a meeting of directors or of a committee of directors by means of telephone or other communication facilities as permit all persons participating in the meeting to hear each other and a director participating in such a meeting by such means is deemed for the purposes hereof to be present at that meeting.

4.8 **Committees and Members' Right to Vote on Committees**

4.8.1 There shall be such standing and special committees having such duties as the Board may

from time to time by resolution determine. The members of such committees shall be appointed by the Board from the representatives of members of the Association (designated pursuant to Article 2.1.3) or from among the directors, officers, executive employees or managers of the members or their associated companies, and shall serve for such term as the Board shall think proper. They shall not receive any remuneration for serving. They shall at any time be subject to removal by resolution of the Board or may resign by delivering to the Association a written resignation and lodging a copy of it with the Secretary of the Association.

4.8.2 Each member shall have one (1) vote on each committee on which such member sits. Members affiliated with other members shall be deemed to form a group of affiliated members and one vote only may be exercised by each such group of affiliated members. The word "affiliated" shall, for the purposes of this Article 4.8.2, have the meaning indicated in Article 2.2.2.

4.9 **Vacancies**

4.9.1 In the case of a casual vacancy occurring in the Board (other than a vacancy arising in the circumstances described in Article 4.9.2 or Article 4.10), the member company being represented has the right to appoint the replacement director. Any director so appointed shall hold office until the next Annual General Meeting of members.

4.9.2 A vacancy shall arise, *ipso facto*, in the Board in respect of any director who is a director, officer, executive employee, nominee or designated representative of a member which has resigned or, pursuant to a resolution adopted by the Board by virtue of the provisions of Article 2.4.4, ceased to be a member of the Association.

In addition, as provided in Article 4.3.2, a vacancy shall arise, *ipso facto*, in the Board in respect of any director who is a designated representative of a member who has not paid or caused to be paid any charges, fees, dues, levies or assessments for a period of two (2) consecutive months from the due date.

In the event of such a vacancy, the next largest carrier or agent in accordance with Article 4.3 shall be appointed and hold office until the next Annual General Meeting. In the event that the individuals appointed in Category I, subsections 4-5 are not able to serve, a Board Member shall be elected from similar Category I members eligible to serve. Only Category I members eligible to vote may vote in this election.

4.9.3 Any director may resign his office at any time. Such resignation shall be given in writing or by telegram or other telecommunication and shall take effect from the time of its receipt by the Association unless some time be fixed in the resignation and then from that time. The acceptance of a resignation by resolution of the Board shall not be required to make it effective.

4.10 **Removal**

Any director may be removed from office by a resolution of the members of the Association, provided that such director has been notified of his pending removal and has been given the opportunity to address the members at the meeting called for the purpose of removing him.

4.11 **Remuneration**

Directors shall not receive any remuneration for their services as directors.

4.12 **Registers**

The Board shall cause to be kept at the Association's Registered Office in accordance with the provisions of the Act a Register of the members of the Association; a register of the holders of bonds, debentures and other securities of the Association and a register of its directors, officers and managers.

4.13 **Minutes and Records to be Kept by Directors**

The Board shall cause the following minutes and records to be entered in books designated for the purpose:

- (1) of the names of directors present at each meeting of directors and of any committees of directors;
- (2) of all members' meetings and directors' meetings in the Association's Minute Book (to be kept at the Association's Registered Office);
- (3) of members kept in a current register;
- (4) of directors, officers, and managers in register form;
- (5) of holders of bonds, debentures, and other securities, kept in registered form;
- (6) of the address of the Association's registered office and of all changes in such address.

Any such minutes of any meeting of directors or of any committee of directors or of members, if purporting to be signed by the Chair, shall be receivable as prima facie evidence of the matters stated in such minutes.

4.14 **Solicitors**

4.14.1 The Association may employ or retain solicitors, any of whom may, at the request or on the instruction of the directors, attend meetings of the directors, the Business Committee, or meetings of the members.

4.14.2 Appointment of Solicitors shall be approved by the Board annually.

4.15 **Directors' Meetings**

The Board shall hold a minimum of 6 regular meetings per year.

5. **BUSINESS COMMITTEE**

5.1 **Business Committee Membership**

Notwithstanding anything contained in Article 4.8, the Business Committee shall consist of:

5.1.1 One representative designated by each of the Category II members except those excluded by Article 3.4.

5.1.2 Three (3) Category I representatives nominated and elected at Annual General meeting from Category I members, except those excluded by Article 3.4. Only Category I members eligible to vote may nominate and vote in this election.

5.1.2.1 Each member of the Business Committee shall have one vote at meetings of the Business Committee. Members of the Business Committee must be present in person at all meetings of the Business Committee and no proxy voting shall be permitted.

5.1.2.2 In the event that any Category II member designated in accordance with Article 5.1.1 or any Category I member representative elected in accordance with Article 5.1.2 is unable to attend any meeting of the Business Committee, either of the two alternates designated by such member pursuant to Article 2.1.3 may attend and vote at such Business Committee meeting in his or her stead.

5.1.2.3 A vacancy shall *ipso facto* arise on the Business Committee if any member represented on the Business Committee ceases to be a member in the circumstances described in Article 2.4.4 or Article 4.3.2. In the case of a casual vacancy on the Business Committee (other than a vacancy arising in the circumstances described in Article 2.4.2 or Article 4.3.2) such vacancy may, in the case of a vacancy in a Category II member representative, be filled by the previously represented Category II member (provided that such Category II member continues to be eligible pursuant to Article 3.4) and, in the case of a vacancy in a Category I member representative, may be filled by a Category I member that is eligible pursuant to Article 3.4 and is approved by a vote of a majority of the Category I members eligible to vote. Any Business Committee member so appointed shall hold office until the next Annual General Meeting of Members.

5.1.3 The President and his staff shall be responsible to the Business Committee on day-to-day policies of the Association with respect to labour negotiations, and with respect to administration of the collective agreements of the Association. The Business Committee shall decide upon all the terms and conditions to be negotiated and agreed to in collective bargaining negotiations, on behalf of the Association and with respect to the administration of all collective agreements with the Association. The authority of the Business Committee shall be subject to the requirement for ratification of all collective bargaining agreements by the Board in accordance with Article 5.1.4.

5.1.4 Before any collective agreement can be ratified it shall be approved first by the Business Committee and the Board in a 2-part process as described in Article 5.1.4.1 and Article 5.1.4.2.

5.1.4.1 A proposed collective agreement must be placed before a meeting of the Business Committee and all Business Committee Members present shall be given an opportunity to vote. For ratification by Business Committee to occur, a majority of those who vote must have voted in favour of such ratification.

5.1.4.2 The Board shall vote on whether to accept a collective agreement approved by the Business Committee under 5.1.4.1 above. For their ratification to occur, a majority of those who vote must have voted in favour of such ratification. Where such vote is against ratification, the Board shall refer the matter back to the Business Committee.

5.1.5 The Business Committee shall cause minutes to be entered in books designated for the purpose:

- (1) of any election of a Chair or appointment of a Secretary or other officer by the Business Committee;
- (2) of the names of the persons present at each meeting of the Business Committee;
- (3) of all orders made by the Business Committee on behalf of the Association;
- (4) of all resolutions and proceedings of meetings of the Business Committee; and
- (5) shall ensure Article 5.1.5 extends to any sub-committee established as per Article

5.1.6 The Business Committee may establish any number of sub-committees, including a committee to carry out collective bargaining negotiations for the Association and a committee to administer the Association's collective agreements. The committee to carry out collective bargaining shall contain no Category I members, save as per Article 5.1.6.1.

5.1.6.1 The Board reserves the discretion to add a Category I representative of its choosing as a voting member of any sub-committee of the Business Committee. Such representative may, at any time, appoint an alternate Category I member in his/her place.

5.1.7 The members of the Business Committee shall appoint a Chair of the Business Committee from among their number, and such person shall have a vote. Questions arising at any meeting of the Business Committee shall be decided by a majority of votes; the Chairman of the Business Committee shall have no second or casting vote. In the case of an equality of votes the question shall be deemed defeated.

5.1.8 The Business Committee is to be given a copy of the current budget as approved by the Board. Within restraints as to ratification of collective bargaining and approval of budgets and any additional budgets, the Business Committee is authorized to conduct affairs as under Article 5.1.3. Any additional expenditure or anticipated additional budgets must be presented to the Board and only carried subject to approval by the Board.

5.1.9 The Business Committee or any sub-committee may at its liberty provide for terms of reference to govern its affairs. These terms of reference shall in all manners respect the Articles of the Association and shall not be inconsistent therewith, and shall be subject to approval by the Board before implementation.

6. TRUSTEES FOR JOINT PENSION AND WELFARE FUNDS

6.1 Trustees - Joint Pension and Welfare Funds

The Board shall annually appoint six (6) trustees for Joint Pension and Welfare Funds, one of whom shall be the President and Chief Executive Officer of the Association. The remaining trustees shall be appointed from among the representatives of any member of the Association (designated pursuant to Article 2.1.3) or a maximum of one retired employee of the HEA or of such members who were active in the Port of Halifax and who served as Trustees before their retirement, or the directors, officers, executive employees or managers of any member or its associated companies, provided that said associated company is sufficiently familiar with the member's Halifax operation, as determined by the Board in its sole discretion.

6.2 **Report to Board**

6.2.1 At least annually the President shall prepare a report to the Board on the status of the Joint Pension and Welfare Funds with sufficient detail for the Board to appreciate the status of such Funds. Once the report is accepted by the Board it shall be released to any member who requests it.

7. **OFFICERS**

7.1 **Officers**

7.1.1 The Officers of the Association shall be a Secretary and a Treasurer. The Board may also elect or appoint a Chairman of the Board, a Vice-Chairman of the Board and such other officers as they may determine, including a President, from time to time, none of whom, except the Chairman of the Board and the Vice-Chairman of the Board who must be directors, need be directors, or members, or designated representatives of members. The offices of Secretary and Treasurer may be held by the same person.

7.1.2 The officers of the Association shall be elected or appointed at the first meeting of the Board following each Annual General Meeting of members.

7.1.3 All officers of the Association shall respectively perform such duties, in addition to those specified in these Articles, as shall, from time to time, be prescribed by the Board.

7.2 **Chairman**

The Chairman of the Board, if any, and the Vice-Chairman of the Board, if any, shall be elected from among the directors. In addition to any duties provided in these Articles, the Chairman of the Board shall have such other powers and duties as the Board may determine from time to time by resolution.

A Vice-Chairman of the Board, if any, shall possess the powers of the Chairman of the Board in the absence or disability or refusal or failure to act of the Chairman of the Board.

7.3 **Secretary**

The Secretary shall attend all meetings of the Board and all meetings of the members and act as clerk thereof and record all votes and minutes of all proceedings in the books to be kept for that purpose. He shall give or cause to be given notice of all meetings of the members and of the Board. He shall keep in safe custody the corporate seal of the Association. He shall have charge of the records of the Association including books containing the names and addresses of the members and the directors of the Association, together with copies of all reports made by the Association, and such other books and papers as the Board may direct. He shall be responsible for the keeping and filing of all books, reports and other documents required by law to be kept and filed by the Association and not required to be kept by some other officer or agent of the Association. He shall perform all the acts incidental to the office of Secretary subject to the control of the Board and shall have such other powers and duties as the Board may determine from time to time.

Whenever the Secretary shall also be the Treasurer he may, at the option of the Board, be designated the "Secretary-Treasurer".

7.4 Treasurer

The Treasurer shall have general charge of the finances of the Association. He shall render to the Board, whenever directed by the Board, an account of the financial condition of the Association and of all his transactions as Treasurer, and as soon as possible after the close of each financial year he shall make and submit to the Board a like report for such financial year. He shall have charge and custody of and be responsible for the keeping of the accounting records required to be kept pursuant to the laws governing the Association. He shall perform all the acts incidental to the office of Treasurer subject to the control of the Board and shall have such other powers and duties as the Board may determine from time to time.

7.5 Removal

The Board may remove and discharge any or all of the officers or employees (either with or without cause) and elect or appoint others in their place or places.

8. FINANCIAL PERIOD, ACCOUNTS AND AUDIT

8.1 Financial Period

The financial period of the Association shall end on the thirty-first (31st) day of December in each year.

8.2 Accounts

The Board shall cause the Association to keep proper accounting records with respect to all financial and other transactions of the Association and, without limiting the generality of the foregoing, shall cause the Association to keep records of all sums of money received and disbursed by it and the matters in respect of which receipt and disbursement take place, all sales and purchases by it, all assets and liabilities and all other transactions affecting its financial position.

The accounting records shall be kept at the registered office of the Association or at such other place in Nova Scotia as the Board thinks fit and shall at all times be open to inspection by the directors.

The Treasurer shall prepare annually a budget for the forthcoming year taking into account such items as may be proposed by the Board, the Business Committee or any sub-committee thereof. The final budget of the Association is subject to approval by the Board. Once approved the budget shall be distributed to the Business Committee and any sub-committee requiring same, and to any member requesting same.

8.3 Audit

The members shall at each Annual General Meeting appoint an auditor or auditors to

audit the accounts of the Association for the ensuing year, provided that the Board may replace an auditor or auditors so chosen in the event that a casual vacancy should occur. The remuneration of the auditor or auditors shall be fixed by the Board.

9. CONTRACTS, CHEQUES, ETC.

9.1 Contract, etc.

All contracts, agreements, deeds, documents, engagements, bonds, debentures and other instruments, delivered or issued by the Association shall be signed by the President and the Treasurer or as the Board may otherwise authorize from time to time. Any such authorization may be general or confined to specific instances. Save as aforesaid or as otherwise provided in these Articles, no director, officer, agent or employee shall have any power or authority to bind the Association by any contract or engagement or to pledge its credit.

9.2 Cheques, etc.

All cheques, bills of exchange or other orders for the payment of money, notes or other evidences of indebtedness issued, accepted or endorsed in the name of the Association shall be signed by such director, officer or agent of the Association and in such manner as shall be determined, from time to time, by the Board. The director, officer or agent so appointed may arrange, settle, balance and certify all books and accounts between the Association and the Association's bankers and may receive all paid cheques and vouchers and sign all the bank's forms of settlement of balance and release or verification slips.

9.3 Deposits

The funds of the Association may be deposited, from time to time, to the credit of the Association with such bank or banks or trust company or trust companies or with such bankers as the Board may approve from time to time.

9.4 Deposit of Securities for Safekeeping

The securities of the Association may be deposited, from time to time, for safekeeping with such bank or banks, trust company or trust companies or other financial institutions in Canada or elsewhere selected by the Board. Any and all securities so deposited may be withdrawn, from time to time, only upon the written order of the Association, signed by such director, officer or agent of the Association and in such manner as shall be determined, from time to time, by the Board and such authority may be general or confined to specific instances. Any institution which may be so selected as custodian by the Board shall be fully protected in acting in accordance with the directions of the Board and shall in no event be liable for the due application of the securities so withdrawn from deposit or the proceeds thereof.

10. DECLARATIONS

The Chairman of the Board (if any), Vice-Chairman of the Board (if any), President, Secretary, Treasurer, Secretary-Treasurer or any other officer or person nominated for the purpose by the President is authorized and empowered to appear and make answer for, on behalf

of and in the name of the Association to all writs, orders and interrogatories upon articulated facts issued out of any court and to declare for, on behalf and in the name of the Association any answer to writs of seizure by way of garnishment and orders to show cause in which the Association is garnishee; and each of said officers and persons is authorized and empowered to make all affidavits and sworn declarations in connection therewith or in connection with any and all judicial proceedings to which the Association is a party and to make demands of abandonment or petitions for winding-up or bankruptcy orders upon any debtor of the Association and to attend and vote at all meetings of creditors of the Association's debtors and grant proxies in connection therewith, and any two (2) of said officers or persons are authorized to appoint by general or special power or powers of attorney any person or persons, including any person or persons other than those officers and persons hereinbefore mentioned, as attorney or attorneys of the Association to do any of the foregoing things.

11. NOTICES

11.1 Notices to Members

11.1.1 Unless otherwise specified in these Articles, a notice may be given to any member either personally to such member or its designated representative or by sending it by post, or by fax, to such member or its designated representative at the address shown in the records of the Association as the address for such member or its designated representative. Notices sent by fax or post shall be deemed to be received on the second business day thereafter.

11.1.2 Irregularities in the notice or in the giving thereof as well as the accidental omission to give notice of any meeting to, or the non-receipt of any notice by, any of the members or designated representatives shall not invalidate any action taken by or at a meeting of members.

Every member shall furnish to the Association an address and a fax number to or at which all notices intended for the member or its designated representative shall be mailed or faxed and, if any member shall not furnish an address, any notice may be addressed to him at any other address of the member at that time appearing on the books of the Association. If no address appears on the books of the Association, such notice may be mailed to such address as the person sending the notice may consider to be the most likely to result in the notice promptly reaching the member.

11.2 Notices to Directors

11.2.1 Unless otherwise specified in these Articles, a notice may be given to any director either personally or by sending it by post, in a prepaid envelope, or by fax to such director at the address shown in the records of the Association as the address for such director.

Every director shall furnish to the Association an address and a fax number to or at which all notices intended for the director shall be mailed to him and, if any director shall not furnish an address, any notice may be addressed to him at any other address of the director at that time appearing on the books of the Association. If no address appears on the books of the Association, such notice may be mailed to such address as the person sending the notice may consider to be the most likely to result in the notice promptly reaching the director.

12. REPEAL AND AMENDMENT OF ARTICLES

These Articles of the Association shall not be amended, modified, altered or repealed except by special resolution of the members duly passed in accordance with the Act and confirmed by a majority of Category II members, voting separately as a class, present in person or by proxy at a meeting of Category II members.

13. DISSOLUTION

In the event of the dissolution of the Association for any cause whatsoever, the property and assets of the Association shall not, in any event, be distributed among the members, but shall be disposed of in such manner as will further its purposes and objects.

14. INDEMNIFICATION OF DIRECTORS AND OFFICERS

14.1 Indemnification

Every director or officer of the Association and his heirs, executors and administrators and estate and effects, respectively, shall be indemnified and saved harmless out of funds of the Association, from time to time and at all times, from and against (a) all costs, charges and expenses whatsoever which such director or officer sustains or incurs in or about any action, suit or proceeding which is brought, commenced or prosecuted against him, for or in respect of any act, deed, matter or thing whatsoever, heretofore or hereafter made, done or permitted by him, in or about the execution of the duties of his office; and (b) all other costs, charges or expenses that he sustains, or incurs, in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by his own wilful neglect; and the Association hereby consents to the indemnification provided for herein.

14.2 Insurance

Without in any way limiting the powers of the Association, the Association may insure against the Association's liability in respect of any of the losses, damages, costs, charges and expenses for which it may be liable pursuant to the foregoing provisions of this Article 14 and may purchase and maintain insurance on behalf of any director or officer and his heirs, executors, administrators and estate and effects, against any liability in respect of the aforesaid losses, damages, costs, charges and expenses, all such insurance to be in such amounts and with such insurers as the Board may determine and the Association may duly and reasonably pay all premiums and other sums of money payable for that purpose with such contribution, if any, by the directors and officers as may be determined by the Board from time to time.

15. BORROWING

15.1 Authority of Board

The Board is hereby authorized from time to time

15.1.1 to borrow money and obtain advances upon the credit of the Association, from any bank, corporation, firm or person, upon such terms, covenants and conditions, at such time, in such sums, to such an extent and in such manner as the Board in its discretion may deem expedient;

15.1.2 to limit or increase the amount to be borrowed;

15.1.3 to issue or cause to be issued bonds, debentures or other securities of the Association and to pledge or sell the same for such sums, upon such terms, covenants and conditions and at such prices as may be deemed expedient by the Board;

15.1.4 to hypothecate, mortgage, charge, pledge, cede and transfer the property, undertaking and rights, real or personal, moveable or immovable or mixed, of the Association now owned or hereafter acquired, or both, to secure any bonds, debentures or other securities or any money borrowed or any other liability of the Association; provided however that the power to execute mortgages of the Association's real or personal property and the power to issue bonds or debentures or debenture stock secured by mortgage or otherwise shall not be exercised by the Board except with the sanction of a special resolution of the Company previously passed and (where confirmation is necessary) confirmed in general meeting;

15.1.5 as security for any discounts, overdrafts, loans, credits, advances or other indebtedness or liability of the Association, to any bank, corporation, firm or person, and interest thereon, to hypothecate, mortgage, pledge and cede and transfer to any bank, corporation, firm or person any or all of the Association's property, real or personal, moveable or immovable or mixed, now owned or hereafter acquired, or both, and to give such security thereon as may be taken by a bank under the provisions of the *Bank Act*, and to renew, alter, vary or substitute such security from time to time, with authority to enter into promises to give security under the Bank Act for any indebtedness contracted or to be contracted by the Association to any bank;

15.1.6 to raise and assist in raising money for, and to aid by way of bonus, loan, promise, endorsement, guarantee or otherwise, any other company with which the Association may have business relations or any of whose shares, debentures or other obligations are held by the Association and to guarantee the performance, or fulfilment of any contracts or obligations of any such company or of any person with whom the Association may have business relations, and in particular to guarantee the payment of the principal of and interest on debentures or other securities, hypothecs, mortgages and liabilities of any such company;

15.1.7 to exercise generally all or any of the rights or powers which the Association itself may exercise under its Charter and the laws governing it;

15.1.8 to delegate in and by any resolution or Article to any officers or directors all or any of the powers hereby conferred upon the directors.

15.2 **Borrowing Powers**

15.2.1 The powers of borrowing and giving security hereby authorized shall be deemed to be continuing powers and not to be exhausted by the first exercise thereof, but may be exercised from time to time hereafter, until the repeal of this Article and notice thereof has been given in writing.

16. **PRIVATE ASSOCIATION**

To the end that the Association may qualify as a private company as that term is defined by the securities laws of Nova Scotia and other Canadian jurisdictions:

- (1) Membership in the Association shall not be transferable;
- (2) The number of members of the Association shall not exceed 50;
- (3) The Association shall not distribute any of its securities to the public or invite the public to subscribe for any of its securities.

17. INTERPRETATION

In these Articles, unless there is something in the subject or context inconsistent therewith:

- (1) "Act" means the *Companies Act* (Nova Scotia);
- (2) "Articles" means these Articles of Association of the Association and all amendments hereto;
- (3) "Association" means the Halifax Employers Association/Association Des Employeurs Halifax;
- (4) "Board" means the Board of Directors of the Association;
- (5) "director" means a director of the Association;
- (6) "Memorandum" means the Memorandum of Association of the Association and all amendments thereto;
- (7) "month" means calendar month;
- (8) "Office" means the registered office of the Association;
- (9) "person" includes a body corporate, a partnership or a sole proprietorship;
- (10) "Register" means the register of members kept pursuant to the Act;
- (11) "Registrar" means the Registrar as defined in the Act;
- (12) "Secretary" includes any person appointed to perform the duties of the Secretary temporarily;
- (13) "special resolution" has the meaning assigned by the Act;
- (14) "year" means the fiscal year of the Association;
- (15) "in writing" and "written" includes printing, facsimile and other modes of representing or reproducing words in visible form;
- (16) words importing number or gender include all numbers and genders unless the context otherwise requires;
- (17) "General Agent" - A General Agent is a company whose prime business is vessel

agency representation, representing more than one Ship Owner/Operator doing business in the Port of Halifax;

- (18) The rate as established and set out in the H.E.A. rates of assessments as determined from time to time. The H.E.A. may also prescribe, impose, implement, amend, replace and promulgate a credit policy or policies, all as further provided in Article 2.3.6.;
- (19) Determination of "Assessment Tonnes" in previous calendar year: In 1995: M.E.A. "Assessment Tonnes". In 1996: M.E.A. "Assessment Tonnes" plus any Association "Assessment Tonnes". In 1997 and thereafter until further notice: Association "Assessment Tonnes";
- (20) In order to determine, identify and define the different cargoes handled, the following definitions will prevail:
- | | | |
|-----|----------------------------|--|
| (A) | Container Cargo: | All cargo in any container received in any type of vessel, or shipped in any type of vessel. |
| (B) | Conventional Cargo: | Cargo loaded and unloaded on and from roll on/roll off ships and conventional ships, generally known as breakbulk cargo. |
| (C) | Bulk Grain: | Bulk grain delivered to or from a vessel. |
| (D) | Bulk Cargo: | Bulk cargo such as sugar, ore etc. |
| (E) | Automobiles: | Automobiles or self propelled vehicles not exceeding 2,725 kilograms in weight on wheels. |
| (F) | U.S. MidWest | Containerized cargo moving to/from the U.S. |
| | Containerized Cargo | MidWest as defined by the Halifax Port Corporation. |
- (21) In determining the total number of Assessment Tonnes in a calendar year accumulated by each type of Category I member, the following cargo types shall apply:
- | | |
|-----------------------|--------------------------------|
| Container Carrier: | cargoes named in 20 (A) to (F) |
| Conventional Carrier: | cargoes named in 20 (A) to (F) |
| General Agent: | cargoes named in 20 (A) to (F) |

17.1.1.2 The regulations in Table A in the First Schedule to the Act shall not apply to the Association.

17.1.1.3 The Directors may, out of the funds of the Association, pay all expenses incurred for the incorporation and organization of the Association, as may be determined by the directors appointed immediately following incorporation.

Exhibit A

Method for re-allocation and balancing of the Board of Directors Category I and II vote as per section (3) Article 4.3.1.1

- Step 1: Multiply the number of directors from each category with each other, and double it by multiplying by 2 (Number of Cat I x Number of Cat II x 2 = A)
- Step 2: Each of Category I and Category II are allocated so (fifty) percent of A as their total category vote. (the result of this division: $A \times 50\% = B$)
- Step 3: Each of Category I and II will then allocate their share among their Directors by dividing their share (B) equally among their directors in their category by dividing (B) by the number of directors in their respective categories.
- Example: There are now 6 Category I directors and 5 Category II directors. Article 4.3.1.1 would apply as follows:

Step 1: $6 \times 5 \times 2 = 60$ (A=60) votes

Step 2: Category I gets 50% of A ($60 \times 50\%$) = 30 votes

Category II gets 50% of A ($60 \times 50\%$) = 30 votes

Step 3: Each category divides their share equally among directors:

Category I directors get (30 divided by 6) 5 votes each

Category II directors get (30 divided by 5) 6 votes each

Although Category I and II directors individually have a different vote, the balance between the categories is preserved as envisaged by the Articles.