

Directors Code of Conduct

Approved by the Board of Directors 14th September 2017

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Introduction

The purpose of this Code of Conduct ("the Code") is to provide guidance to members of the Board of Shannon Foynes Port Company and all subsidiary and associated companies of Shannon Foynes Port Company ("the Company") in the performance of their duties, as set down in the Harbours Acts 1996 to 2015, and taking into account the implications of the Ethics of Public Office Acts, 1995, the Standards in Public Office Act 2001, and the Code of Practice for the Governance of State Bodies (2016).

The objectives of this Code are to set out an agreed set of ethical principles, to promote and maintain confidence and trust in the Company, and to promote compliance with the best ethics, governance, and management practices in all the Company's activities.

It is expected that the directors of the Company will apply the same duty and care to the resources of the Company as they would to their own resources. The Company's ethos is strongly focussed on the principles of control and integrity. The Code outlines the responsibilities of each director of the Company and of the Company itself.

The Code is not a full statement of obligations of a director arising from his/her relationship with the Company and each director's duties and responsibilities arise also from the general law including company law; pursuant to the Harbours Acts; pursuant to the Code of Practice for the Governance of State Bodies and by virtue of the constitution of the Company inclusive of its memorandum and articles of association.

Nature, Intent & Scope of Application

The role of the Board is defined with the Code of Practice for the Governance of State Bodies 2016. As an overriding principle, the code states that:

"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".

It goes onto state that: -

"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 purpose of the Code of Conduct is to offer guidance to Shannon Foynes Port Company Board members in their business conduct.

The Code is not a full statement of obligations of a director, as responsibilities arise from a number of sources including but not limited to: -

- The Companies Acts 2014
- Harbour's Acts
- Irish General Law
- The Company Constitution inclusive of Memorandum and Articles of Association.
- Applicable Guidelines issued by Government Departments from time to time
- Best, generally accepted, current practice.

The Code of Conduct applies to all the Directors of Shannon Foynes Port Company and its subsidiaries and it is intended to:

- Assist the Chairperson and Directors of Shannon Foynes Port Company in the performance of their duties as directors, in accordance with best practices.
- Establish an agreed set of ethical principles.
- Promote and maintain confidence and trust and prevent the development or acceptance of unethical practices.
- Ensure that the Shannon Foynes Port Company employs the highest ethical standards in all its activities and prevent the development or acceptance of unethical practices.

Fiduciary Duties

All Board members have a fiduciary duty to the Company in the first instance. This includes the duty to act in good faith and in the best interests of the Company. 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.

General Responsibilities & Principals

- The underlying principle is that Board members will strive to perform their duties according to the highest ethical standards of honesty, integrity, accountability, confidentiality, independence and legality.
- It is the responsibility of each director to ensure that he/she acts within the law in general and in particular in fulfilling his/her duties as a director of the Company. It is the responsibility of each director to satisfy him/herself as to what is lawful or otherwise. It is also the responsibility of each director to ensure that all of these activities, whether covered specifically or otherwise in this document, are governed by the ethical considerations implicit in this Code.
- The principles of this Code are based on regularity and propriety. Regularity reflects the concern that company monies are used only for those purposes for which they have been approved. Propriety is concerned with the way business is conducted, and extends to the standards of conduct and behaviour, having regard to best practice in corporate governance, and incorporating fairness and integrity in decision making. It includes the avoidance of personal profit from company business, even-handedness in the appointment of staff, open competition in the award of contracts, and the avoidance of waste and extravagance. Based on these general responsibilities and principles, the directors agree to adhere to the principles set out below

Conflict of Interest

- The duty of each director is to act at all times solely in the best interests of the Company to the exclusion of all other considerations. It is central to the conduct of the business of the Company that Board members should act, and be perceived to act, impartially and not to be influenced in their roles as Board members by business or social relationships.
- A conflict of interest exists in any situation where the personal or other interest of a director or a connected party 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 by the conflict of interest. A director or a person connected with a director must not under any circumstances obtain any such benefit.

- The procedures with regard to dealing with an issue of conflict of interest are detailed in the Company Constitution under article 49 of the articles of association which is set out in [Schedule 1](#).
- In addition to the requirements specified in article 49 regarding disclosure of interests, this Code establishes for each director a more specific requirement regarding disclosure of interests and the procedures to be followed where such a conflict of interest may exist.

Declaration of Directors Interests

- It is central to the conduct of the business of the Company that Board members should act, and be perceived to act, impartially and not to be influenced in their roles as Board members by business or social relationships. On appointment to the Board of the Company, each director must furnish to the Company Secretary details of his or her employment and of all other business interests including shareholdings, professional relationships etc.
- Board members should note that in addition to obligations arising under general law, they are under a specific obligation arising under Section 41 of the Harbours Act, 2015 to disclose certain interests. A copy of this section is set out in [Schedule 2](#)
- In addition, the director is bound by the Code of Practice for the Governance of State Bodies Guidelines on Disclosure which is set out in [Schedule 3](#)
- Directors must disclose outside employment/business interests in conflict or in potential conflict with the business of the Company. The interests of any connected party which could involve a continuing conflict of interest should be disclosed as far as they are known to the director.
- A director should absent himself/herself when the Board is deliberating or deciding on matters in which he/she (other than in his/her capacity as a member of the Board) or a person or body connected with him/her has an interest. Where a question arises as to whether or not a case relates to the interests of a director or a person or body connected with him/her, the Chairperson shall determine the question and his/her decision shall be final and binding on the director and the Board. Where the conflict of interest concerns the Chairperson, he or she should absent him or herself from the meeting while the issue is being discussed. Where a question arises as to whether or not a matter relates to an interest of the Chairperson, the Board shall determine the question and its decision shall be binding on the Chairperson.
- The Company Secretary is required to maintain a register of interests of each director which is confidential. The register will be updated on an annual basis. Changes in interest should be notified to the Company Secretary in the interim as soon as possible. Only the Chairperson, Chief Executive and Company Secretary will have access to the register. Use of the register will be strictly limited to the requirements of this Code.

Integrity

Each Director of Shannon Foynes Port Company is expected to observe the highest standards of honesty and integrity in all his/her business dealings. To this end, as a Director, one must:

Disclose outside employment/business interests that may be in conflict or have potential to cause conflict with the operation of the Company.

- Giving or receiving corporate 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 should be avoided.
- Be committed to competing vigorously and energetically for the Company but also ethically and honestly and to reject any business practice which might reasonably be deemed to be improper
- Ensure that the Company conducts its purchasing activities in accordance with best practice and the Company's purchasing procedures.
- Ensure that the State body's annual report and financial statements accurately reflect their business performance and are not misleading or designed to be misleading.
- Ensure a culture of claiming expenses only as appropriate to business needs and in accordance with good practice in the public sector generally.

- Ensure that engagements of consultancy and other services are in compliance with public policy guidelines.
- Be committed not to acquire information or business secrets by improper means.
- Avoid misrepresenting one's position or being ambiguously misleading
- Not abuse one's position in the Company for personal gain
- Avoid the use of the State body's resources or time for personal gain, for the benefit of persons/organisations unconnected with the body or its activities or for the benefit of competitors.
- Commit not to acquire information or business secrets by improper means.

Information & Confidentiality

Each Director in the Shannon Foynes Port Company owes a duty of confidentiality to the Company. Directors are required to ensure that business information which they obtain by reason of their appointment is not misused, whether by suppliers, their competitors or competitors of the Company. In order to protect such information, Directors are required to:

- Provide access to general information relating to the Company's activities in a way that is open and that enhances its accountability to the general public.
- Ensure that such information is properly safeguarded and avoid using such information for personal gain
- Respect the confidentiality of sensitive information held by the State body. This would constitute 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
- Exercise due care in communicating such information, where the Company is releasing sensitive information into the public domain, it is required to observe appropriate prior consultation procedures with the third parties involved
- Comply with the relevant statutory provisions such as the Data Protection Legislation and Freedom of Information Acts.
- Observe the strictest confidentiality in relation to all discussions and decisions taken at meetings of the Board.
- Upon retirement from the Board, former directors will continue to observe due confidentiality, and return such documentation or equipment obtained in the course of their term of appointment to the Company Secretary, or otherwise indicate to the Secretary that all such documentation in their possession has been disposed of in an appropriate manner. In the event that former directors require access to Company papers from the time of their tenure on the Board, this will be facilitated by the Company Secretary
- Directors should familiarise themselves with the provisions in article 104 of the Company's articles of association (a copy of which is set out in [Schedule 4](#) which binds all directors to a strict confidentiality obligation).
- Apart from the obligations in article 104 of the articles of association there is a specific confidentiality obligation in Section 33 of the Harbours Act 1996 a copy of which is set out in [Schedule 5](#).

Obligations

In order to ensure compliance in one's business dealings with the laws of Ireland, Directors are required to:

- Fulfil all regulatory and supervisory obligations imposed on the Shannon Foynes Port Company
- Comply with the Company's purchasing and tendering procedures and with prescribed levels of authority for sanctioning any relevant expenditure
- Comply with the controls in place for the prevention of fraud, including those in relation to the claiming of all business related expenses for business travel
- Use their reasonable endeavours to attend all Board meetings.
- Co-operate with relevant regulatory and supervisory bodies
- 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

other engagement that may give rise to the potential for conflicts of interest and to confidentiality concerns.

- Avoid false, inaccurate or misleading entries in record
- Ensure that taxation and welfare legislation is upheld
- Ensure one's actions comply with relevant contractual obligations
- Encourage effective and fair competition at all times
- Avoid engaging in any illegal or criminal activities
- Co-operate with internal audit in the internal audit process.
- Acknowledge the duty of all to conform to highest standards of business ethics.
- 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, the Minister for Transport, Tourism and Sport ("the Minister").

Loyalty

Each Director in the Shannon Foynes Port Company are required to:

- Acknowledge the responsibility to be loyal to Shannon Foynes Port Company and be fully committed to all its activities, while mindful that the Company must at all times take into account the interests of all funders, including tax payers.
- Acknowledge the duty of all to conform to highest standards of business ethics.

Fairness

Each Director in the Shannon Foynes Port Company are required to:

- Be compliant with employment legislation and equal status legislation in carrying out their responsibilities.
- Be committed to fairness in all their business dealings.
- Treat all its suppliers and customers equally.

Work / External Environment

Each Director of Shannon Foynes Port Company are required to:

- Place the highest priority on promoting and preserving the health, safety & welfare of its employees.
- Commit to minimising any detrimental impact to the environment through the Company's operations.
- Be committed to the development of modern and efficient systems and recognise good Corporate Social Responsibility to be of equal importance to other prime business considerations.

Non-compliance

Each Director in the Shannon Foynes Port Company owes a duty of care to the Company where matters of non-compliance are evidenced or known. Where a Board member/Director finds evidence that there is non-compliance with any statutory obligations that apply to the Company, he/she should:

- Ensure the matter is immediately brought to the attention of their fellow Board members/Directors with a view to having the matter rectified.
- Ensure the matter is brought to the attention of the relevant Minister by the Chairperson indicating:
 - i. the consequences of such non-compliance and
 - ii. the steps that have been or will be taken to rectify the position. It is the Chairpersons responsibility to make such issues known to the Minister

Review

- Arrange for, and commit to, reviewing the Code of Conduct as appropriate.

Schedule 1

Article 49 (4-6) – Articles of Association

(4) Where at a meeting of the Directors of the company or a subsidiary any of the following matters arise, 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.

(5) Where a material interest is disclosed pursuant to this Article, 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 directors by whom the disclosure is made shall not be counted in the quorum for the meeting.

(6) 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 paragraph (4), the question may, subject to paragraph (7), 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.

Schedule 2

Section 41 of the Harbours Act 2015

Amendment of section 32 of Act of 1996 (disclosure by directors of certain interests)

41. The following is substituted for section 32 of the Act of 1996:

“32. (1) 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 3

Code of Practice for the Governance of State Bodies 2016

Disclosure of Interests by Board Members

- i. 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.

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.
- ii. 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.
- iii. 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.
- iv. 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.
- v. 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.
- vi. 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.
- vii. 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.

- viii. 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').

Schedule 4

Article 104 of the Company's Articles of Association

"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 5

Section 33 of the Harbours Act 1996

Prohibition on Unauthorised Disclosure of Information

33 —(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.

Directors Code of Conduct

September 2017

I have received, read and understood Shannon Foynes Port Company's Code of Business Conduct for Directors and I agree to be bound by the terms thereof:

Name _____

Position __DIRECTOR_____

Signature _____

Date _____