



**CONSTITUTION
OF THE
MAPUTO CORRIDOR LOGISTICS INITIATIVE**
Revision 4 (02 February 2017)
Incorporated as a Section 21 Company on 17 March 2004
Memorandum of Incorporation as a Not-Profit Company
14 June 2016
(Reg. No. 2004/007466/08)

1. ESTABLISHMENT OF MCLI

There is hereby established the organisation known as the MAPUTO CORRIDOR LOGISTICS INITIATIVE (MCLI) a voluntary association not for gain, with legal personality and perpetual succession.

MCLI is the formation of a grouping of infrastructure investors, service providers and users focused on the promotion and further development of the Maputo Corridor, as a contribution to the aims and objectives of the Maputo Development Corridor, namely:

- To rehabilitate and maintain, in partnership with the private sector, the primary infrastructure network along the Corridor, including road and rail links between South Africa and Maputo, the border post between the two neighbours, and the Port of Maputo.
- To maximise investment in the potential of the Corridor area and in added opportunities that infrastructure rehabilitation would create.
- To maximise social development and employment opportunities, and increase participation of historically disadvantaged communities.
- To ensure sustainability by developing policy, strategies and frameworks that ensure holistic, participatory and environmentally sustainable approached to development.

MCLI is incorporated in South Africa as a membership organisation, with private and public sector members drawn from South Africa, Mozambique and Swaziland. MCLI co-operates closely with organised business to engage with relevant authorities in order to coordinate and represent the combined views of all stakeholders involved in the investment, utilisation and provision of the infrastructure and services on the Corridor.

2. DEFINITIONS AND INTERPRETATIONS

2.1 In this Constitution, unless stated otherwise or inconsistent with the context, the following shall have the meaning assigned to them below:

- 2.1.1 “Key Members” Means the following funding member companies:
CFM - Ports and Railways Authority of Mozambique
DOT - Department of Transport (May 2006)
Grindrod Terminals
Kudumba Investments Lda
MMC - Manganese Metal Company Pty Ltd
SR - Swaziland Railway
TFR - Transnet Freight Rail
- 2.1.2 “MCLI” Means the Maputo Corridor Logistics Initiative
- 2.1.3 “MDC” The Maputo Development Corridor
- 2.1.4 “Member” Means persons who become members in terms of article 9.2.1 of this constitution
- 2.1.5 “Profits” Includes revenue and capital profits
- 2.1.6 “Register” Means the register of members kept in terms of the Statutes
- 2.1.7 “Registration Date” Means the date on which MCLI was registered on 17 March 2004
- 2.1.8 “Rules” Means the rules determined by the board of directors from time to time
- 2.1.9 “Stakeholders” Means Public and Private Sector Corridor investors, service providers, policy makers; policy implementers and users working together to promote the optimum use and further growth and development of the Maputo Development Corridor
- 2.1.10 “The Companies Act” Means Act No. 71 of 2008 as amended or any Act which replaces it
- 2.1.11 “The Republic” Means the Republic of South Africa
- 2.1.12 “The Statutes” Means the Companies Act and any and every other statute of ordinance from time to time in force concerning companies and necessarily affecting the company
- 2.1.13 “The Trust” Means the Company
- 2.1.14 “Trustee” Means any director of the company as appointed from time to time

- 2.1.15 References to members represented by proxy shall include members represented by an agent appointed under a general or special power of attorney and references to members present or acting in the manner prescribed in the Statutes.
- 2.1.16 Expressions defined in the Companies Act or any statutory modification thereof, in force at the date on which these Articles become binding in the company, shall have the meanings so defined.
- 2.1.17 Words in the singular number shall include the plural and words in the plural number shall include the singular. Words importing the masculine gender shall include the female gender, and words importing persons shall include bodies corporate.

3. PUBLIC COMPANY

MCLI is regarded as a public company.

4. STRATEGIC OBJECTIVES

- 4.1 To support the development of the Maputo Corridor into an efficient, sustainable, highly efficient transportation route, to ensure a favourable climate for investment and new opportunities for stakeholders on the corridor and to make the Maputo Corridor the first choice for the region's stakeholders.
- 4.2 To be the leading coordinator of Maputo Corridor stakeholders to ensure a cost-effective, seamless and reliable logistics route creating an enabling environment for further investment and growth, bringing positive returns for all stakeholders.

5. ETHOS:

The organization in all its dealings and amongst its members, will seek to promote an ethos based on the principles of:

- 5.1 Commitment to good corporate governance
- 5.2 Accountability and transparency
- 5.3 Professionalism in all we undertake
- 5.4 Effectiveness and efficiency
- 5.5 Inclusivity

6. KEY ACTIVITIES

- 6.1 Facilitation of stakeholder engagement across the full spectrum of the corridor supply chain, inclusive of public sector stakeholders
- 6.2 Communication and information dissemination
- 6.3 Lobbying through the mandate of stakeholders to influence public policy
- 6.4 Advocacy through access to market best practice with regard to transport, trade facilitation, customs modernisation, and corridor management
- 6.5 Marketing of the Corridor and its benefits to the industry and wider community

7. POWERS:

MCLI shall have the following powers to enable it to realise its objectives, provided the exercise of these powers shall not result in jeopardizing MCLI's status as a Non-Profit company and shall not result in MCLI becoming engaged as a principle in logistics trading activities or would put it in any way in competition with its members:

- 7.1 To purchase or acquire, in any way, stock-in-trade, plant, machinery, land, buildings, agencies, shares, debentures and every other kind or description of movable and immovable property.
- 7.2 To manage, insure, sell, lease, mortgage, dispose of, give in exchange, work, and develop any part of its property and assets
- 7.3 To otherwise deal with all or any part of its property and assets.
- 7.4 To secure the payment of monies borrowed in any manner including the mortgaging and pledging of property and, without detracting from the generality thereof.
- 7.5 To open and operate banking accounts.
- 7.6 To act as principal, agent or contractor.
- 7.7 To pay gratuities and pensions and establish pension schemes in respect of its employees and members.
- 7.8 To enter into contracts inside or outside the Republic and to execute any contracts, deeds and documents in any country, subject to MCLI's approval.
- 7.9 To do any other thing incidental to or reasonably necessary or desirable for the attainment of its objectives.
- 7.10 To have all such other powers as a voluntary organisation shall have in law.

8. SPECIAL CONDITIONS

- 8.1 The income and property of MCLI shall be applied solely towards the promotion of its main objectives.
- 8.2 Upon its winding-up, de-registration or dissolution, the assets of MCLI, remaining after the satisfaction of all its liabilities, shall be given or transferred to another organisation, association or institution or organisations or institutions, having objectives similar to its main objective, to be determined by the constituents of MCLI at or before the time of its dissolution or failing such determination by the High Court.

9. MEMBERS:

9.1 General:

- 9.1.1 MCLI is a membership organization intended to be funded partly by its membership, with key members; general members and affiliate/cooperation partner members as per the Memorandum of Incorporation. Participation will be open to the wider range of stakeholders with membership fees based on affordability in terms of the size of organisations.
- 9.1.2 The Key Members of the Company are the following funding organisations with their nominated representatives representing them on the board of directors:
 - DOT - Department of Transport (May 2006)
 - MMC - Manganese Metal Company Pty Ltd
 - Grindrod Mozambique, Lda
 - Kudumba Investments Lda
 - TFR - Transnet Freight Rail
 - SR - Swaziland Railway
 - CFM - Ports and Railways Authority of Mozambique
- 9.1.3 The membership of the company can consist of:
 - 9.1.3.1 Key Members:
 - The first members, and subsequent approved additions of the company who contribute in equal financial portion to secure the establishment of MCLI outside the general membership contributions and other generated income, shall be key members.

9.1.3.2 Sponsor Members:

Persons, corporations, companies, institutions or other bodies who, having agreed to be bound by the terms of the Memorandum of Incorporation of the company and having been admitted to membership, pay an annual contribution of such an amount as the board of directors may determine from time to time.

9.1.3.3 General Members:

Persons, corporations, companies, institutions or other bodies who, having agreed to be bound by the terms of the Memorandum and Articles of Association of the company and having been admitted to membership, agree to pay such annual subscription as shall be determined by the board of directors.

9.1.3.4 Honorary Members:

Persons who, in recognition of exceptional and distinguished services rendered to the company are elected honorary members by the board of directors.

9.1.3.5 Cooperative Partners:

Professional or educational or other institutions and/or associations and/or societies which, having agreed to be bound by the Memorandum of Incorporation and having been admitted to membership through the signing of a letter of cooperation.

9.2. ADMISSION OF MEMBERS

9.2.1 Any person who makes an electronic or written application, such as may be prescribed from time to time, to become a member of the company and who subscribes to the objectives of the company shall be and become a member of the company.

9.2.1 Without limiting the power of MCLI to prescribe the form of application for membership, such form shall in any event contain an undertaking by the applicant that upon admission to membership, the provisions of this Constitution and any Rules that may be in force from time to time shall bind such applicant.

9.2.2 The application shall be submitted to the Executive, who shall have the power to:

- Admit the applicant to membership, subject to such terms and conditions as it may determine.
- Reject such application without assigning any reason therefore and without hearing the applicant.

9.2.3 Any admission to membership shall only become effective when the application has accepted and signed, electronically or other wise, the conditions applicable to membership of MCLI as well as paid, in full, the prescribed subscription fee and any other amounts which may be payable on becoming a member, as may be determined from time to time by MCLI.

9.2.4 All members' names shall be recorded in a register of members on the MCLI Website.

9.2.6 The executor of a deceased member or the trustee of an insolvent member will become a member of the company ipso facto upon receiving his appointment and will remain a member until he has resigned or been expelled, subject to the provision of Article 9.5. In case there is more than one executor or trustee, in the respective estates, the executors or trustees thereof shall in each case count as one member, and shall in each case, for all purposes of the company, be represented by one of their number fully authorized thereto to the satisfaction of the chairman of the meeting.

9.3 RIGHTS OF MEMBERS:

In addition to the rights expressly provided for elsewhere in this Constitution and in the Rules, every member who is in good standing shall receive all the services rendered by

MCLI, including in particular the right to receive all notices, publications, reports and literature issued by MCLI and the right to distribute the same to other employees of the same organisation.

9.4 DURATION OF MEMBERSHIP

Every member shall remain a member for two years from signature of the membership contract until his or her membership terminates in accordance with the provisions set out in this Constitution. Membership contracts will be renewed before expiry of the two year period.

9.5 TERMINATION OF MEMBERSHIP

Members shall ipso facto cease to be a member of MCLI:

9.5.1 If his estate is finally sequestrated;

9.5.2 If being a body corporate, an order of the final winding-up or judicial management of the member is granted or a special resolution for the winding-up of the member is duly passed and registered in terms of the Act;

9.5.3 If he is placed under curatorship;

9.5.4 If he is removed as a member by a majority of the members or directors in terms of Article 13.1.6

9.5.5 If such member ceases to have the qualifications for Membership of MCLI as determined by the Memorandum of Incorporation

9.5.6 Upon non-payment of membership fees and notwithstanding the provision of 9.5.7 below.

9.5.7 Upon receipt by MCLI of a written resignation by such member of his or her membership provided that, pending such resignation becoming effective, such member shall pay to MCLI all liabilities accruing to it; including any subscriptions owing in respect of the current financial year of MCLI within which such resignation takes place, unless the board of directors determines otherwise and provided further that a member may at any time with the consent of MCLI withdraw such notice of resignation.

9.5.8 A notice period of 30 days shall be given before termination of membership.

9.6 SUBSCRIPTIONS

9.6.1 The annual subscriptions payable to MCLI shall be for such amounts as may be determined by the board of directors from time to time, having due regard to any recommendations of the Executive Committee.

9.6.2 All subscriptions shall become due and payable upon such dates and in such amounts as the MCLI, upon the recommendation of the Executive Committee, may determine from time to time. Any member failing to pay such subscriptions within one month after due date shall be deemed not to be in good standing.

9.6.3 Should the member fail to pay such arrear subscriptions within one month after written demand by the CEO of MCLI, MCLI may cancel the membership of such member and direct that the name of such member be removed from the register of members and in such event the membership of such member shall be terminated, provided however that such members shall be afforded an opportunity of stating his or her case at such meeting of MCLI or other appropriate forum determined by MCLI, either personally or through a bona fide person in his or her employment.

9.6.4 No representative of any member shall be eligible for election to any committee or office of MCLI if at the time of such representative's nomination, the subscription fees payable by such members are in arrears. Such disqualification will cease when such arrears are paid.

9.6.5 Save as may otherwise be decided by MCLI, in the exercise of its absolute discretion, all arrears in subscriptions shall bear interest at the rate determined by MCLI from time to time.

9.6.6 All subscriptions are non-refundable.

10. MEETING OF MEMBERS

10.1 The Company, at such times as prescribed in the Statutes, shall hold general meetings of members to be known and described in the notices calling such meeting as an annual general meeting.

10.2 The Directors may, whenever they think fit, convene a general meeting and a general meeting shall also be convened on a requisition by members representing not less than one-twentieth of the total voting rights of all the members of the company, having at the date of the lodgement of the requisition, a right to vote at general meetings of the company or, in default, may be convened by the requisitioners as provided by and subject to the provisions of the Statutes. If at any time there shall not be within the Republic sufficient directors capable of acting to form a quorum, any directors or any two members of the company may convene a general meeting in the same manner as nearly as possible as that in which meetings may be convened by the directors.

10.3 Subject to the provisions of the Statutes relating to meetings of which special notice is required to be given, an annual general meeting and a meeting called for the passing of a special resolution shall be called by at least twenty-one (21) clear days notice in writing, and a meeting of the company, other than an annual general meeting or a meeting for the passing of a special resolution, shall be called by at least fourteen (14) clear days notice by electronic means or in writing.

The notice shall specify the place, the day and the hour of meeting and, in the case of special business, the general nature of the business, and shall be given, in manner hereinafter mentioned or in such other manner, if any, as may be prescribed by the company at a meeting of members, to such persons as are, under the Articles, entitled to receive such notices from the company; provided that a meeting of the company shall, notwithstanding that it is called by shorter than it is so agreed by a majority in numbers of the members having a right to attend and vote at the meeting who hold not less than ninety-five per cent (95%) of the total voting rights of all the members. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice, shall not invalidate the proceedings of that meeting.

11. PROCEEDINGS AT MEETINGS OF MEMBERS

11.1 All business that is transacted at a general meeting, and all that is transacted at the annual general meeting, with the exception of the consideration of the audited financial statements, the election of auditors and the fixing of the remuneration of the auditors, shall be deemed to be special business.

11.2 Business may be transacted at any meeting of members only while a quorum is present.

11.3 Save as herein otherwise provided, the quorum at a meeting of members shall be fifty per cent (50%) plus one (1) member entitled to vote, personally present, or if a member is a body corporate, represented.

11.4 If within thirty (30) minutes from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved, in any case it shall stand adjourned to the same day in the next week, at the same time and place, or, if that day be a public holiday, to the next succeeding day other than a

- public holiday, and if at such time appointed for the meeting then, subject to the Statutes, the members or member present shall be a quorum.
- 11.5 The chairman, if any, of the board of directors shall preside as chairman at every meeting of members of the company. If there is no such chairman, or if at any meeting he is not present within fifteen (15) minutes after the time appointed for holding the meeting or is unwilling to act as chairman, the members present shall choose some director, or if no director be present, or if all the directors present decline to take the chair, they shall choose some member present to be chairman of the meeting.
- 11.6 The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned as a result of a direction given in terms of any applicable provision in the Statutes, notice of the adjourned meeting shall be given in the manner prescribed by such provision but, save as aforesaid, it shall not be necessary to give any notice of an adjournment of the business to be transacted at an adjourned meeting.
- 11.7 At any meeting of members a resolution put to the vote of the meeting shall be decided on a show of hands, on request of any member present a vote by secret ballot will be allowed without any discussion of the reasons of the request. A declaration by the chairman that a resolution has been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the minute book of the company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, such resolution. No objection shall be raised as to the admissibility of any vote except at the meeting or adjourned meeting at which the vote objected to be or may be given or tendered and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection shall be referred to the chairman of the meeting, whose decision shall be final and conclusive.
- 11.8 In the case of an equality of votes, the chairman of the meeting shall not be entitled to a second or a casting vote.
- 11.9 Subject to the provisions of the Statutes, a resolution in writing signed by a majority of the persons for the time being entitled to receive notice of and to attend and vote at a meeting of members or by duly authorized representatives on their behalf, shall be as valid and effectual as if it had been passed at a meeting of the company duly convened and held.

12. VOTES OF MEMBERS

- 12.1 Each member of the company present in person or by proxy, if a member is a body corporate, duly represented at any meeting of the company, shall have one vote.
- 12.2 A proxy must be a member of the company
- 12.3 The form appointing a proxy shall be in writing, electronic or other wise, under the hand of the appointee or his agent duly authorized in writing, electronic or other wise or, if the appointee is corporate body, under the hand of an officer or agent authorized by that body. The holder of a general or special power of attorney given by a member shall be entitled to vote, if duly entitled authorized under the power to attend and take part in the meeting and proceedings of the company or companies generally, whether or not he be himself a member of the company.
- 12.4 The form appointing a proxy and the power of attorney of other authority, if any, under which it is signed or a notarially certified copy of such power or authority shall be deposited at the registered office of the company not less than twenty-four (24) hours (or such lesser period as the directors may unanimously determine in relation to any particular meeting) before the time for holding the meeting (including an adjourned meeting) at which the person named in the form proposes to vote, and in default the form of proxy shall not be treated as valid. No form appointing a proxy shall be valid

after the expiration of six (6) months from the date when it was signed, except at an adjourned meeting unless otherwise specifically stated in the proxy itself.

12.5 Subject to the provisions of the Companies Act, a form appointing a proxy may be any usual or common form.

13. RULES:

MCLI, upon the recommendation of board of directors may make Rules not inconsistent with the provisions of the Memorandum of Incorporation and may amend, alter, add to or rescind any such rules and in this regard do all other things which may be considered conducive to the interests and good management of MCLI and to the promotion of its objectives. Any member may submit proposals regarding the making of Rules or the amendment, alteration, addition to, or revision of any Rules

Any such Rules shall remain in force unless and until amended or rescinded by a resolution of the MCLI Board.

14. BOARD OF DIRECTORS

14.1 The composition of the MCLI Board shall be as follows:

14.1.1 The Directors :

- Executive Directors : The Key Members of MCLI
CFM - Ports and Railways Authority of Mozambique
DOT - Department of Transport (May 2006)
Grindrod Terminals
Kudumba Investments Lda
MMC - Manganese Metal Company Pty Ltd
SR - Swaziland Railway
TFR - Transnet Freight Rail
- Non-Executive Director from the Department of Transport and Communications in Mozambique

14.2 Until otherwise determined by a meeting of members, the number of directors shall not be less than two.

14.3 The company may from time to time at any meeting of members increase or reduce the number of directors.

14.4 Unless otherwise decided by a meeting of members the directors may fill any casual vacancy occurring in the board of directors.

14.5 The company, at a meeting of members or the directors, shall have power at any time, and from time to time, to appoint any person as a director but so that the total number of directors shall not at any time exceed the maximum number fixed by or in terms of the statutes.

14.6 There is hereby constituted a board of directors which shall be the highest decision making body of MCLI.

14.7 The Board of directors may appoint or request observers to attend meetings of MCLI, provided that such observers shall not enjoy any voting powers.

The Board of MCLI may request the relevant organisation to replace a nominee after such nominee has been absent from two consecutive Board meetings without apology or in the event of non-participation in the activities of MCLI.

14.7.1 The Chairperson and Vice-Chairperson – Non-Executive:

To be nominated by the MCLI Board of Directors, individuals of high business standing in the economy of Mozambique and/or South Africa.

14.7.2 The CEO of MCLI and the secretary shall attend MCLI Board Meetings but shall have no right to vote.

14.8 ALTERNATE DIRECTORS

14.8.1 Any director shall have the power to nominate another person to act as alternate director in his place during his absence or inability to act as such director, and on such appointment being made, the alternate director shall, in all aspects, be subject to the terms and conditions existing with reference to the other directors of the company. A person may be appointed as alternate to more than one director where an alternate director is a director; he shall have a separate vote, on behalf of each director he is representing in addition to his own vote, if any.

14.8.2 The alternate directors, whilst acting in the place of the directors who appointed them, shall exercise and discharge all the duties and functions of the directors they represent. The appointment of an alternate director shall cease on the happening of any event which, if he were a director, would cause him to cease to hold office in terms of this constitution, or if the director who appointed him ceases to be a director, or gives notice to the secretary of the company that the alternate director representing him shall have ceased to do so. An alternate director shall look to the director who appointed him for his remuneration.

14.9 BORROWING POWERS OF DIRECTORS

14.10.1 The directors may, at their discretion, from time to time, raise or borrow from the member or other persons any sums of money for the purpose of the company without limitation

14.10.2 The directors may secure the payment or repayment of any sums of money borrowed or raised in terms of Article 11.1 or the repayment of any debt, liability or obligation whatsoever of the company or of a third party, in such manner and upon such terms and conditions in all respects as they think fit.

15. REMUNERATION OF DIRECTORS

15.1 The directors may be paid all travelling, hotel and other expenses properly incurred by them in or about the performance of their duties as directors including those of attending and travelling to and from meetings of the directors or any committee of the directors or at any meeting of members of the company.

15.2 The directors may pay any director who serves on any committee or who devotes special attention to the business of the company, or otherwise performs services which in the opinion of the directors are outside the scope of the ordinary duties of a director, such extra remuneration as they may determine.

The above is subject to it being included in the year's budget and/or sufficient funding being available, without hampering the daily operational funding of MCLI.

15.3 POWERS AND DUTIES OF THE OF DIRECTORS

15.3.1 The Business of the company shall be managed by the directors who may exercise all such powers of the company as are not by the Memorandum of Incorporation, required to be exercised by the company at any meeting of members (including

without derogating from the generality of the foregoing or from the rights of the members, the power to resolve that the company be wound up), subject nevertheless to the provisions of the Memorandum of Incorporation and to such regulations being not inconsistent with the Memorandum of Incorporation, as may be prescribed by the company at any such meeting; but no regulation made by the company at such meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

- 15.3.2 The directors may from time to time appoint one or more of their body to the office of managing director, chief executive officer or manager for such period and generally on such terms, as they may think fit. The appointment of a managing director or manager shall terminate ipso facto if he shall cease for any reason to be a director, or if the company at any meeting of members shall resolve that his tenure of the office of managing director or manager be terminated.
- 15.3.3 The directors may from time to time entrust to and confer upon a managing director or manager for the time being such of the powers vested in them as they may think fit, and may confer such powers for such time and to be exercised for such objects and upon such terms and with such restrictions as they may think fit expedient; and they may confer such powers either collateral or to the exclusion of, and in substitution for, all or any of the powers of the directors, and may from time to time revoke or vary all or any of such powers. A managing director or chief executive officer appointed pursuant to the provisions hereof shall not be regarded as an agent or delegate of the directors and after powers have been conferred upon him by the directors in terms hereof he shall be deemed to derive such powers directly from this constitution..
- 15.3.4 The directors shall have the power from time to time to delegate, or to allocate, to any one of their members or to any other person, whether in Republic or not, such of the powers as are vested in the directors pursuant to the Memorandum of Incorporation, as they may deem fit.
- 15.3.5 The directors may delegate, or allocate any of their powers to committees consisting of such member or members of their body as they think fit; any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the directors. Save as aforesaid, the meetings and proceedings of a committee consisting of more than one member shall be governed by the provisions of the Memorandum of Incorporation regulating the meeting and proceedings of directors.

15.4 POWERS OF THE MCLI BOARD OF DIRECTORS

The MCLI Board of Directors is vested with the powers and functions assigned to it under this Constitution and without derogating from the generality thereof, such powers and functions shall include the following:

- 15.4.1 To take such action and do such things deemed necessary to further the interests and to promote the objectives of MCLI.
- 15.4.2 To provide policy direction by setting and reviewing specific directives and priorities for MCLI.
- 15.4.3 To monitor implementation.
- 15.4.4 To monitor the operating structure, finances and administration of MCLI and for this purpose to appoint an audit committee.
- 15.4.5 To determine from time to time new categories of membership and representation.
- 15.4.6 To determine and approve the operating and capital budgets of MCLI.
- 15.4.7 To appoint the CEO.
- 15.4.8 To amend the Constitution.

15.4.9 To make and amend rules.

15.4.10 To do all things for the more effective achievement of the objectives of MCLI.

15.5 DISQUALIFICATION AND PRIVILEGES OF DIRECTORS

A director shall cease to hold office as such if:

15.5.1 He ceases to be a director by virtue of any of the provisions of the Memorandum of Incorporation or becomes prohibited for being a director by reason of any order made under the Memorandum of Incorporation: or

15.5.2 His estate is sequestered or he files an application for the surrender of his estate or an application for an administration order, or if he commits an act of insolvency as defined in the insolvency law for the time being in force, or if he makes any arrangement or composition with his creditors generally; or

15.5.3 He is found lunatic or becomes of unsound mind; or

15.5.4 He is removed by a resolution of the company as provided in the Memorandum of Incorporation.

15.5.5 He resigns his office by notice in writing to the company.

15.5.6 A notice removing him from office is signed by members a right to attend and vote at a meeting of members who hold not less than seventy five per cent (75%) of the total voting rights of all members who are at the time entitled so to attend and vote and is delivered to the company or lodged at its registered office

15.5.7 He is otherwise removed in accordance with any provisions of the constitution

No director or intending director shall be disqualified by his office from contracting with the company in any manner whatsoever.

Such director shall not be entitled to vote at any board meeting or otherwise in relation to such contract and he shall be reckoned for the purpose of consulting a quorum of directors.

15.6 PROCEEDINGS OF DIRECTORS

15.6.1 A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of the directors

15.6.2 The directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings, as they think fit.

15.6.3 Unless otherwise resolved by the directors, all their meetings shall be held in the city or town where the company's registered office is for the time being situated.

15.6.4 Questions arising at any meeting of the directors shall be decided by a majority of votes.

15.6.5 The chairman shall not have a second or casting vote

15.6.6 The directors may determine what period of notice shall be given of meetings of directors and may determine the means of giving such notice, which may include telephone and email. It shall not be necessary to give notice of a meeting of directors to any director for the time being absent from the Republic, but notice of any such meeting shall be given to his alternate, if he has appointed one, provided that such alternate is in the Republic.

15.6.7 A quorum shall consist of one-half of the total number of directors plus one director. For the purpose hereof a director who has authorized another director to vote for him at a meeting in terms of Article 14.10 shall, if the director so authorized is present at the meeting, be deemed to be present himself and each director whose alternate is present at a meeting (even if the latter is alternate to more than one director, shall be deemed to be present).

15.6.8 The continuing directors (or sole continuing director) may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the

number fixed by or pursuant to the Articles as a quorum, the continuing directors or director may act only for the purpose of summoning of a general meeting of the company. If there are no directors or director able and willing to act, and no specific provision is made in the Memorandum of Incorporation for the appointment of directors, then any two members may summon a general meeting for the purpose of appointing directors

15.6.9 Subject to the Memorandum of Incorporation:

15.6.9.1 A resolution in writing, including through medium of electronic mail, signed by the sole director or by all the directors for the time being present in the Republic and being not less than are sufficient to form a quorum shall be as valid and effectual as if it has been passed at a meeting of directors duly called and constituted; provided that where a director is not present in the Republic, but has an alternate who is, the resolution must be signed by that alternate. The resolution may consist of several documents; each signed by one or more directors or their alternates in terms of the Articles.

15.6.9.2 In the case of matters requiring urgent resolution or, if for any reason impractical to meet as contemplated in Article 14.3 or pass resolution as contemplated in Article 14.9.1, the meeting may be conducted and a resolution may be passed utilizing conference telephone facilities, provided that the required quorum is met.

15.6.10A director unable to attend a director's meeting may authorize any director to vote for him at that meeting, and in that event the director so authorized shall have a vote for each director by whom he is so authorized, in addition to his own vote. If both the directors so authorized and an alternate of the director who granted the authority are present at the meeting, the alternate shall not be entitled to vote on behalf of the absent director. Authority in terms of this Constitution must be in writing (which may take the form of electronic mail) and must be handed to the person presiding at the meeting at which it is to be used.

15.6.11 The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present within (15) minutes after the time appointed for holding it, the directors present may choose one of their number to be chairman of the meeting.

15.7 VALIDITY OF ACTS OF DIRECTOR AND COMMITTEES

As regards all persons dealing in good faith with the company, all acts done by any meeting of the directors or of a committee of directors or of any executives, or by a person acting as a director shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment or continuance in office of any such directors or persons acting as aforesaid, of that they or any of them were disqualified or had ceased to hold office or were not entitled to vote, be as valid as if every such person had been duly appointed or was qualified or had continued to be director or was entitled to vote, as the case may be.

15.8 RESERVES

The director may set aside the profits of the company and carry to reserve such sums, as they think proper. All sums standing to the credit of revenue and general reserve shall at the discretion of the directors be applicable for meeting contingencies, for the gradual liquidation of any debt or liability of the company, for repairing, improving or maintaining any property of the company, for meeting losses on realization of or writing down investments either individually or in the aggregate, for equalizing of paying dividends, or for any other purpose to which profits of the company may appropriately allied. Pending such application such

sums may either be employed in the business of the company (without being kept separate from the other assets of the company) or be invested. The directors may divide the reserve into such special reserves as they think fit and re-allocate the amounts of such reserves either in whole or in part to other special or general reserves and may consolidate into one reserve any special reserves or any parts of any special reserves into which the reserve may have been divided. The directors may also carry forward any profits without placing them to reserve.

16. EXECUTIVE COMMITTEE

There shall be an Executive Committee consisting of the Key Member companies of MCLI :

CFM - Ports and Railways Authority of Mozambique
DOT - Department of Transport (May 2006)
Grindrod Terminals
Kudumba Investments Lda
MMC - Manganese Metal Company Pty Ltd
SR - Swaziland Railway
TFR - Transnet Freight Rail

A Chairperson is to be nominated at every meeting by the attending Executive Committee members.

- 16.1 The CEO of MCLI shall attend meetings of the Executive Committee but shall have no right to vote.
- 16.2 Meetings of the Executive Committee shall be held at least four (4) times per annum, and at such other times as the Executive Committee may determine.
- 16.3 Subject to the provisions of this Constitution and the Directors of MCLI, the Executive Committee may, during periods between meetings of MCLI exercise the powers and perform those functions which may be delegated to it by the full MCLI Board or which may be required to be performed by the exigencies of necessity.
- 16.4 The provisions of clause 17.4 shall not be construed as empowering the Executive Committee to set aside or amend decisions of the Board of MCLI.
- 16.5 Any decision taken or act performed by or on the authority of the Executive Committee shall be of full force and effect, unless it is set aside or amended by the full Board of MCLI.
- 16.6 Each member of the Executive Committee shall have one vote at meetings of the Executive Committee.
- 16.7 In case of deadlock in voting, the chairperson shall not have a casting vote and dispute should be taken to the vote of the board of directors.
- 16.8 The quorum in respect of meetings of the Executive Committee shall be two (2) members of the Executive Committee.
- 16.9 Members of the Executive Committee shall serve for a term and thereafter will be eligible for re-election.

17. POWERS AND FUNCTIONS OF THE EXECUTIVE COMMITTEE:

Subject to the direction and control of the board of MCLI, the Executive Committee is vested with the powers and functions assigned to it under this Constitution and without derogating from the generality thereof, such powers and functions shall include the following:

- 17.1 To make recommendations to the MCLI regarding the amount of the annual subscriptions by members as well as the dates upon which such amounts shall become due and payable.

- 17.2 To make recommendations to the MCLI regarding the rate of interest this will accrue on overdue subscriptions.
- 17.3 To guide, direct and monitor the CEO.
- 17.4 To authorise the CEO of MCLI to act on behalf of MCLI for the purpose of entering into any contract.
- 17.5 To authorise the CEO to invest monies on behalf of MCLI.
- 17.6 To authorise the CEO to open bank accounts on behalf of MCLI.
- 17.7 To recommend to MCLI the budget as presented by the CEO on an annual basis.
- 17.8 To determine the conditions of employment and emoluments of the CEO, this shall be reviewed annually.
- 17.9 To appoint persons as representatives of MCLI to serve on other organisations.
- 17.10 To review the monthly management accounts of MCLI.

18. COMMITTEES:

- 18.1 MCLI Board of Directors may approve the establishment of Committees/Task Teams for such objectives and purposes and with such powers and duties as it may decide consist with carrying out the objectives and promoting the interests of MCLI.
- 18.2 The Executive Committee may appoint a Chairperson and a Vice-Chairperson in respect of each such committee/task team.

19. OFFICE BEARERS:

- 19.1 **The Chief Executive Officer (CEO)**, who shall be appointed by the Board of Directors and shall have the functions and duties set out here under:
 - 19.1.1 Subject to the direction and control of the Executive Committee, there shall vest in the CEO the powers and functions assigned to him or her as determined by the Executive Committee in his or her written employment contract.
 - 19.1.2 Representing MCLI in domestic and in public affairs and acting as an official spokesman for MCLI in accordance with the policies of MCLI.
 - 19.1.3 Attending the Annual General Meetings, Executive Committee Meetings and any other meetings of MCLI.
 - 19.1.4 MCLI Board or the Executive Committee may assign other functions and duties as to him/her.
- 19.2 The Chief Operations Officer– who shall be appointed by the CEO
- 19.3 The operational and secretariat staff– who shall be jointly appointed by the CEO and the COO

20. NOTICES

- 20.1 A notice by the company to any member shall be regarded as validly given if it is either delivered electronically or personally to the member or sent prepaid through the post to him at his registered address.
- 20.2 Every notice given in terms of Article 22.1 shall bind a member. The Company shall not be bound to enter any person in the register of members until that person gives the company an address for entry in the register.
- 20.3 Any notice, if given by post, shall be deemed to have been served on the day following that on which the letter or envelope containing such notice is posted, and in proving the giving of the notice sent by post it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post office. When a given number of days' notice extending over any period is required to be given the day of service shall not be counted in such number of days or period.

21. FINANCIAL YEAR:

The financial year of MCLI shall be 01 March to 28 February.

22. INDEMNITY

Every director, manager and officer of the company and every person (whether an officer of the company or not) employed by the company as auditor, shall be indemnified out of the funds of the company against all liability incurred by him as such director, manager, officer or auditor, in defending any proceedings, whether civil or criminal, in which judgement is given in his favour, or in which he is acquitted, or in connection with any application under the Companies Act, Section 248 or any amendment thereof in which relief is granted to him by the court.

23. WINDING UP

If the company shall be wound up the liquidator shall comply with provisions of clauses 5.1 and 6.7 of the company's Memorandum of Incorporation.

24. PATRONS

The directors may from time to time appoint patrons of the company for periods determined by the directors.

25. CONFLICT

Where there is an inconsistency between the provisions of this constitution and the provisions of the Memorandum of Incorporation of the company, then the Memorandum will prevail.

SIGNED AT NELSPRUIT ON THE 2ND DAY OF FEBRUARY 2017

CHAIRMAN