

Consolidated version of the PKP CARGO S.A. Management Board Regulations

**PKP CARGO S.A. MANAGEMENT BOARD BYLAWS**

GENERAL PROVISIONS

§ 1

The Management Board of PKP CARGO Spółka Akcyjna with its registered office in Warsaw, hereinafter referred to as "Management Board" operates on the basis of applicable provisions of law, in particular:

- 1) Act of 15 September 2000 entitled Commercial Companies Code (Journal of Laws, Number 94, Item 1037, as amended),
- 2) Act of 8 September 2008 on Commercialization, Restructuring and Privatization of the State-Owned Enterprise „Polskie Koleje Państwowe” (Journal of Laws, Number 84, Item 948, as amended),
- 3) PKP CARGO S.A. Articles of Association,
- 4) these PKP CARGO S.A. Management Board Regulations, hereinafter referred to as the "Regulations",
- 5) internal regulations.

§ 2

1. The Management Board manages the Company's affairs and represents the Company vis-à-vis third parties.
2. The Management Board is authorized to manage all of the Company's affairs not restricted for the powers of the Shareholder Meeting or the Supervisory Board.

§ 3

1. The Management Board is composed of one to five Management Board Members, including the President of the Management Board.
2. The President of the Management Board and the other Management Board Members manage the Company's affairs stemming from the scope of tasks entrusted to them, prescribed by the Regulations and a separate Management Board resolution.
3. Management Board Members use job titles corresponding to the scope of tasks entrusted to them, in particular:
  - 1) Management Board Member responsible for Finance,
  - 2) Management Board Member responsible for Trade,
  - 3) Management Board Member responsible for Operations,and the title associated with the recommendation given by the Company's employees - Management Board Member - Employee Representative.
4. The term "Management Board Members" used in the Regulations and the Company's other internal regulations refers to all the persons in the Management Board mentioned in sec. 1 and 3.

§ 4

1. Management Board Members are appointed for a joint 3-year term of office.
2. Mandates of the President and other Members of the Management Board expire on the date of holding the Shareholder Meeting approving the financial statements and the Management Board's Report on the Company activity in the most recent full financial year when they discharged their functions.
3. The President and other Members of the Management Board may submit a written resignation from their function to the Company with a copy for the information of the Supervisory Board. Resignations are governed accordingly by the provisions of the Civil Code on termination of a contract of mandate by a mandator.

§ 5

If the Management Board consists of one person then the Company is represented by the President of

the Management Board. If the Management Board consists of more than one person then the Company is represented by the President of the Management Board acting individually or by two Management Board Members acting jointly or by a Management Board Member acting jointly with a commercial proxy.

#### § 6

1. The Management Board may appoint commercial proxies or attorneys-in-fact to act for and on behalf of the Company.
2. The consent of all Management Board Members expressed in the form of a Management Board resolution is required for appointment of a commercial proxy.
3. A commercial proxy may be revoked by the President of the Management Board and each Management Board Member.
4. Powers-of-attorney for permanent management of the Company's affairs are granted on the basis of a Management Board resolution.
5. Detailed rules for handling the matters associated with granting powers-of-attorney, registrations and keeping of their collections are defined in separate internal regulations.

#### § 7

1. The scope of the Management Board's duties includes: managing the Company's affairs and managing the Company's activity, representing it vis-à-vis third parties and managing its assets to the extent following from prevailing provisions of law.
2. In particular, the following belongs to the scope of the Management Board's activity:
  - 1) acting on behalf of the Company and representing it vis-à-vis third parties,
  - 2) preparing the Company's periodic financial statements and the Management Board's report on the Company's activity by the deadlines making it possible to publish them in accordance with pertinent provisions of law,
  - 3) having the financial statements audited or reviewed by the auditor,
  - 4) submitting the documents referred to in item 2 to the Supervisory Board for evaluation, together with the auditor's opinion and report,
  - 5) convening the Shareholder Meetings, submitting motions for the Shareholder Meeting and preparing draft resolutions for the Shareholder Meeting,
  - 6) submitting for review and approval of the Ordinary Shareholder Meeting the Management Board's report on the Company's activity and the financial statements for the last financial year together with the auditor's opinion and report,
  - 7) providing materials to the Supervisory Board within the framework of exercise of its statutory powers,
  - 8) preparing and adopting regulations associated with the Company's activities, unless they are reserved for the powers of another governing body of the Company,
  - 9) adopting the Company's business plans and activity plans,
  - 10) preparing, no later than within two months of the end of the financial year, the Company's activity plan for the next financial year,
  - 11) other matters not reserved for other governing bodies of the Company.

#### § 8

In particular the Management Board Member is authorized to:

- 1) file a motion to the chairman of the Supervisory Board to convene the Supervisory Board meeting,
- 2) participate in the Supervisory Board meetings - on the terms and conditions specified in the Supervisory Board bylaws.

#### § 9

1. The Management Board performs all the legally required activities associated with the business register in which the Company is registered.
2. The Management Board keeps a ledger of the Shareholder Meeting minutes, makes it available for review to the shareholders and, on their request, issues certified copies of Shareholder Meeting resolutions.
3. The Management Board keeps a ledger of the Supervisory Board minutes.

#### § 10

1. The matters, which do not go beyond the Company's ordinary business do not require a Management Board resolution, while a Management Board resolution is required for the following matters:
  - 1) the Company incurring liabilities and disposing of proprietary rights regardless of the amount of the liability as regards:
    - a) taking out loans and borrowings,

- b) establishing mortgages and pledges and other security interests,
  - c) extending financial guarantees and sureties by the Company,
  - d) issuing, guaranteeing and endorsing bills of exchange,
  - e) selling or purchasing real properties (land, buildings, structures and premises) or encumbering them with limited rights in rem in favor of third parties,
  - f) activities performed without consideration, including donations and loan for use,
  - g) determining the rules for writing off receivables and rules for spreading repayment of receivables into installments,
  - h) approving voting instructions in composition and bankruptcy proceedings,
  - i) purchasing and selling shares in other companies, retiring shares, making cash and in-kind contributions to companies and subscribing for shares,
  - j) issuing bonds and other debt securities of the Company and allocating the proceeds from such issues;
- 2) liquidating the Company's assets with the value exceeding PLN 100,000;
  - 3) incurring liabilities and disposing of proprietary rights whose value exceeds PLN 3,000,000 - excluding services performed pursuant to the price lists, tariffs and sales rules adopted by the Management Board and transport agreements;
  - 4) incurring liabilities as regards entering into commercial transport agreements if the value of the liability is equal to or higher than PLN 10,000,000;
  - 5) giving consent to enter into a settlement in a pre-court and court procedure, for a subject matter of the settlement exceeding PLN 500,000;
  - 6) appointing a commercial proxy;
  - 7) accepting financial statements, Management Board's report on the Company's activity and the report of the Management Board as the Company's governing body;
  - 8) paying an interim dividend as an advance towards the dividend anticipated at the end of the financial year;
  - 9) approving annual and long-term business plans and activity plans;
  - 10) setting transport tariffs and sales policy as regards rail freight;
  - 11) approving the Company's employee remuneration system;
  - 12) approving the Company's organizational bylaws;
  - 13) establishing, merging and liquidating companies, enterprises, branches, establishments and representative offices domestically and abroad;
  - 14) approving voting instructions for the Shareholder Meetings of companies with participation of PKP CARGO S.A.;
  - 15) enrolling in business and other organizations in Poland and abroad;
  - 16) convening Shareholder Meetings;
  - 17) matters referred by the Management Board to the Shareholder Meeting or to the Supervisory Board;
  - 18) accepting materials submitted to the Supervisory Board and Shareholder Meeting, with the exception of operating information which fit within the powers of one or two Management Board members;
  - 19) accepting the motions submitted to the Supervisory Board and Shareholder Meeting on distribution of profit or coverage of losses;
  - 20) moving to the Supervisory Board for convening its meeting and placing individual matters on the agenda of the Supervisory Board meeting;
  - 21) appointing and dismissing the directors of the Company's establishments and deputy directors of the Company's establishments, specified in the Company's organizational bylaws;
  - 22) regulating the processes occurring in the Company as part of its activities and establishing procedures in individual areas of management;
  - 23) other matters of significant impact on the Company's activities, submitted to the Management Board meeting by the President of the Management Board or Management Board Member.
2. In the event that after the Management Board adopts a resolution consenting to drawing down a liability or disposing of a right the necessity arises to amend the executed agreement in respect of the following:
- 1) substituting one of the parties to an agreement with a third party,
  - 2) term of the agreement,
  - 3) subject matter of the agreement, raising the value of the drawn down liability or the value of the asset disposal by more than 5% on a gross basis;
  - 4) raising the value of the drawn down liability or the value of the asset disposal by more than 5% on a gross basis;

then the applicant applies for the Company's Management Board to consent to effecting such an

amendment. In the event of executing additional annexes raising the value of a liability or the value of disposal of a right, their value is totaled to reach the stated 5% threshold of the gross basic value of the liability or the gross basic value of disposal of the right. Every subsequent amendment to an agreement causing the stated thresholds to be exceeded requires the Company's Management Board's consent.

The above does not apply to commercial transport agreements which are concluded according to rules define in separate regulations.

3. In the event that the Company draws down a liability for an unspecified term, the value of the performance for a five year period as agreed in, or contemplated by, the agreement is accepted.
4. In the event that the Company enters into lease agreements with a purchase option (for an unspecified term or a specified term longer than five years) with PKP Group companies, the agreed value of the performance for a five year period is accepted.

#### RULES FOR HOLDING MANAGEMENT BOARD MEETINGS AND FOR ADOPTING RESOLUTIONS

##### § 11

1. Management Board meetings are held in the Company's seat or in another place indicated by the President of the Management Board. The meetings can also be held using the means of direct remote communication (videoconferences, teleconferences).
2. Management Board meetings are held at least once a week. In particularly justified cases, Management Board meetings may be held on a later date but no later than within 14 days of the date of the preceding meeting.
3. The fixed day for holding Management Board meetings and specific rules for preparation of materials for Management Board meetings are defined by the President of the Management Board in the form of a decision.
4. Management Board meetings may be convened on other dates in a manner providing information about the place, time and agenda.
5. The President of the Management Board convenes the Management Board meetings and chairs them. The President of the Management Board may authorize other Management Board members to convene and chair Management Board meetings. The President of the Management Board or Management Board Member appointed by the President Of The Management Board convening the meeting defines the agenda of the Management Board meeting.
6. The President of the Management Board and other Management Board Members are obligated to participate in the Management Board meetings.
7. Other persons, whose presence is deemed justified by the person convening the meeting, may participate in the Management Board's meeting in an advisory capacity.
8. The President of the Management Board is obliged to convene the meeting upon written motion of:
  - 1) Supervisory Board,
  - 2) Management Board Member.
9. The meeting referred to in sec. 8 should be held no later than within 5 business days after the date of delivery of the motion or on the date set by the Supervisory Board.
10. The Management Board meeting may be convened immediately, if all Management Board Members have been notified and no Management Board Member objects as regards the date, place or agenda.

##### § 12

1. The President of the Management Board chairs the Management Board meetings; inter alia he/she:
  - 1) presides over the meeting,
  - 2) ensures observance of the agenda and correctness of the ballots,
  - 3) gives the floor,
  - 4) orders breaks in the meeting,
  - 5) accepts motions,
  - 6) orders voting,
  - 7) counts the votes cast during adoption of resolutions,
  - 8) ascertains adoption of resolutions.
2. When absent, the President of the Management Board is substituted by the Management Board Member appointed by the President of the Management Board.

##### § 13

1. The topics of Management Board meetings and the order of reviewing the motions is determined by the President of the Management Board or other Management Board Member convening the Management Board meeting.
2. The motions to be reviewed at the Management Board meeting are submitted by: President of the

Management Board, other Management Board Members, Management Board attorneys-in-fact.

3. The President of the Management Board may, by means of a decision, name other persons authorized to submit motions to the Management Board meeting.

#### § 14

1. Management Board resolutions are adopted at Management Board meetings.
2. Voting at Management Board meetings is held in an open ballot. Upon request of a Management Board Member, chairman of the Management Board meeting orders a secret ballot.
3. Management Board members may participate in adopting Management Board resolutions by casting their vote in writing through another Management Board member. Such a vote in writing may not be given if the voting concerns issues introduced to the agenda during the Management Board meeting.
4. Validity of Management Board resolutions and decisions requires notification to all Management Board Members about the date of the meeting.
5. Management Board resolutions are adopted by an absolute majority of votes present at the meeting, provided that at least half of the Management Board members are in attendance.
6. Absolute majority of votes means at least 1 vote more than the sum of other valid votes, i.e. votes against and abstaining.
7. In the event of an equal number of votes 'for' and the total number of votes 'against' and 'abstaining', the President of the Management Board will have the casting vote.
8. A Management Board Member may present a dissenting opinion on the adopted resolution and enter it in literal wording into the minutes.

#### § 15

1. Management Board Resolutions may be adopted by the Management Board also:
  - 1) in writing, or
  - 2) by means of direct remote communication.
2. The decision on taking a ballot following the procedure mentioned in section 1 is made by the President of the Management Board upon his/her own initiative or upon request from a Management Board Member.
3. Validity of a resolution adopted in the procedure mentioned in section 1 is conditional upon a prior consent of all the Management Board Members to vote in a given procedure.

#### § 16

Where a resolution is adopted following the procedure mentioned in § 15 sec. 1 item 1, Management Board Members submit their voting statements in separate letters comprising identical wording of the resolution and return them immediately to the department at the Company's Head Office responsible for handling Management Board meetings.

#### § 17

1. Resolutions may also be adopted following the procedure mentioned in § 15 sec. 1 item 2 by phone, audioconference, videoconference or by electronic mail.
2. The Management Board may adopt resolutions by using electronic mail as a direct means of remote communication, by sending the draft resolution prepared in writing by the President of the Management Board or a person authorized by him/her, by electronic mail, to all Management Board Members to their previously provided e-mail addresses.
3. The Management Board may adopt resolutions by phone, audioconferencing or videoconferencing as a direct means of remote communication, by having the President of the Management Board or the Management Board Member authorized pursuant to § 11 sec. 5 or by another person named by the chairperson of the Management Board meeting read the draft resolution prepared in writing.

#### § 18

1. Management Board meetings and resolutions are minuted. The minutes are also prepared after holding a ballot following the procedure referred to in § 15 sec. 1, on the basis of statements issued by Management Board Members.
2. The minutes are prepared by the recording clerk named each time by the chairperson of the Management Board meeting.
3. The minutes are signed by the Management Board Members attending the Management Board meeting, while the Management Board Members absent at the Management Board meeting confirm on the minutes that they have familiarized themselves with the minutes.

#### § 19

1. The minutes from Management Board meetings should comprise:
  - 1) consecutive number of the minutes, date and place of the meeting (with the exception of the procedure prescribed by § 15),
  - 2) full names of the Management Board members attending the Management Board meeting,
  - 3) statement that the Management Board is capable of adopting binding resolutions,
  - 4) full names and functions of the invited guests attending the meeting,
  - 5) meeting agenda,
  - 6) concise summary of the discussed matter and representations made for the minutes,
  - 7) wording of the resolutions adopted,
  - 8) number of votes for, against the resolution and abstaining from vote, including the number of votes cast in the manner specified in § 24 sec. 3,
  - 9) reservations and dissenting opinions expressed by Management Board Members with regard the adopted resolutions,
  - 10) recommendations and conclusions, if submitted or arrived at.
2. Provisions of sec. 1 apply accordingly to the minutes prepared after a vote conducted following the procedure referred to in § 15 sec. 1.
3. Attachments to the minutes include:
  - 1) document confirming that the Management Board meeting has been convened, containing the agenda,
  - 2) attendance record,
  - 3) motions and other materials deliberated on during the meeting,
  - 4) where votes are cast following the procedure referred to in § 14 sec. 3, the letter stating that a Management Board Member votes through another Management Board Member,
  - 5) where a resolution is adopted following the procedure mentioned in § 15 sec. 1 item 1, the letters containing the wording of the resolutions and statements of Management Board Members giving their consent for the resolutions to be adopted.
  - 6) where a resolution is adopted following the procedure mentioned in § 17 sec. 2, printouts of statements of Management Board Members submitted by electronic mail.
4. Extracts from the minutes are prepared.
5. The extracts are signed by the President of the Management Board or the Management Board Member presiding over a Management Board meeting or some other person authorized by the President of the Management Board.
6. Detailed procedures for the preparation and signing of minutes, preparation of extracts from minutes, keeping the register of minutes and resolutions and archiving of the documents mentioned in § 20 sec. 1 are set forth by the President of the Management Board in the form of a decision.
7. Minutes from a Management Board meeting should be prepared within 5 business days of its date.

#### § 20

1. The company keeps:
  - 1) Record of minutes from Management Board meetings
  - 2) Record of extracts of minutes from Management Board meetings,
  - 3) Register of Management Board meeting minutes and resolutions.
 The register of minutes and resolutions should contain successive numbers of minutes and resolutions, dates of meetings along with information on what they pertained to.
2. The documents referred to in sec. 1 are stored in the organizational unit at the Company's Head Office responsible for handling Management Board meetings.

#### DETAILED RANGE OF ACTIVITIES OF MANAGEMENT BOARD MEMBERS.

#### § 21

1. Management Board Members run the Company's affairs and they make their own decisions in matters assigned to them in these Bylaws and in Management Board resolutions, provided that they do not require decision of the entire Management Board.
2. Management Board Members run the Company's affairs in regular course of business.
3. Activities arising from the Act of 5 August 2010 on protecting confidential information (Journal of Laws of 2010, No. 182, Item 1228 as amended) are performed on behalf of PKP CARGO S.A. by the Company's Management Board or another Management Board Member designated by resolution of the Company's Management Board.

#### § 22

1. The scope of the President of the Management Board's activity includes directing the work of the Management Board and the Company's ongoing operations and overseeing the management of specific areas of the Company's activity, in accordance with the powers established by a separate

Management Board resolution, particularly in the following area:

- 1) business strategy,
  - 2) business security and internal audit.
2. Special powers of the President of the Company's Management Board include performance of the Company's defense tasks resulting from the regulations on general defense obligation.

#### § 23

1. The scope of activity of the Management Board Member responsible for Finance includes caring for the rational management of the Company's resources and overseeing the management of specific areas of the Company's activity, in accordance with the powers established by a separate Management Board resolution, particularly in the following area:
- 1) finance management,
  - 2) purchase and sale of assets.
2. Special powers of the Management Board Member responsible for Finance include the performance, on behalf of PKP CARGO S.A., of obligations arising from accounting, tax and insurance regulations.

#### § 24

The scope of activity of the Management Board Member responsible for Trade includes caring for adequate sales levels and customer relations and overseeing the management of specific areas of the Company's activity, in accordance with the powers established by a separate Management Board resolution, particularly in the following area:

- 1) commercial policy,
- 2) sales of transportation services.

#### § 25

The scope of activity of the Management Board Member responsible for Operations includes caring for the effective execution of the Company's business and technological processes and overseeing the management of specific areas of the Company's activity, in accordance with the powers established by a separate Management Board resolution, particularly in the following area:

- 1) execution of transports,
- 2) maintenance of rolling stock.

#### § 26

The scope of activity of the Management Board Member - Employee Representative includes overseeing the management of specific areas of the Company's activity, in accordance with the powers established by a separate Management Board resolution.

#### § 27

1. The President of the Management Board and the Management Board Members oversee the activities of the organizational units reporting to them and they conduct the affairs stemming from the powers of these units.
2. The provisions of sec. 1 will be applied accordingly to the organizational cells of the Company's Head Office.
3. In response to the request of the President of the Management Board or, in the event of his absence, a Management Board Member, the Management Board may, in the form of a resolution, temporarily entrust supervision over the affairs or organizational cells of the Company's Head Office belonging to the powers of a Management Board Member, to another specified Management Board Member or Managing Director, in the following events:
  - 1) where a Management Board Member is suspended in his or her duties or dismissed and no new Management Board Member is appointed in his/her place,
  - 2) where a Management Board Member's inability to discharge his/her function for a prolonged period poses a threat to the Company's proper operation,
  - 3) where the Company has special management needs.
4. The President of the Management Board's powers include hiring, amending and terminating the employment relationship with the directors of the Company's Units, the directors of representative offices of PKP CARGO S.A. abroad and employees of the Company's head office employed in positions designated in a separate decision by the President of the Management Board.

#### § 28

In order to ensure continuity of ongoing management of the Company and handling of the Company's affairs, substitutions for the Management Board President and Management Board Members are implemented as follows:

- 1) When absent, the President of the Management Board is substituted by the Management Board Member appointed by the President,
- 2) When absent, a Management Board Member is substituted by the President of the Management Board.

#### VERIFICATION OF IMPLEMENTATION OF DECISIONS.

##### § 29

1. The Management Board will report quarterly to the Supervisory Board on material events in the Company's activity. Such a report will also include a statement on the Company's revenues, costs and financial result.
2. Within the scope of their powers set out in the Bylaws or in a Management Board resolution, Management Board Members are responsible for the business side of supervision over the execution of resolutions adopted by the Management Board.
3. Upon a motion submitted by the Management Board, the Company's Head Office department responsible for handling Management Board meetings will provide the Management Board with information on the progress of execution of Management Board's resolutions.
4. The Company's Head Office department responsible for controlling will present an analysis of the Company's economic and financial standing and the progress of fulfillment of annual planned tasks, upon any request from the Management Board but no less frequently than once per quarter.

#### MISCELLANEOUS.

##### § 30

Without consent of the Company's Shareholder Meeting, the Management Board President or a Management Board Member may not engage in any competitive business or participate in a competitive company as a partner in a civil law company or partnership or as a member of a corporate body of a capital company or participate in another competitive legal person as a member of its corporate body. The above prohibition applies also to participation in a competitive capital company if a Management Board member holds at least 10 per cent of shares in such a company or has the right to appoint at least one management board member.

##### § 31

In the event of conflicting interests of the Company and personal interests of a Management Board Member, his/her spouse, relatives and second degree next of kin, the Management Board member should provide immediate notification of such a conflict to the remaining Management Board Members and in the case of the President of the Management Board also to the Supervisory Board and refrain from participating in the discussion and voting on a resolution in the matter where the conflict of interests has occurred and may request that this fact be recorded in the minutes.

##### § 32

1. The person dismissed from the position of the Management Board President will formally hand over all of the documents held, including the report on the pending matters, to the Supervisory Board chairperson or another Management Board Member named by the chairperson.
2. The persons dismissed from the position of Management Board Members will formally hand over all of the documents held, including the report on the pending matters, to their successor. If the successor is not appointed promptly then the documents will be taken over by the person specified in the Company's internal regulations setting forth the detailed procedure for dismissing persons from functions discharged in the Management Board.
3. The provisions of sec. 1 and 2 apply accordingly when a Management Board Member steps down from his/her position.

##### § 33

The Management Board places announcements mentioned in art. 5 of the Commercial Company Code in the Court and Business Monitor [*Monitor Sądowy i Gospodarczy*].

##### § 34

Relevant provisions of the PKP CARGO S.A. Articles of Association and provisions of the Commercial Company Code apply to the matters, which are not regulated in these Bylaws.

##### § 35

Any amendments to the Bylaws, in order to come into effect, must be approved by the Supervisory Board upon a motion submitted by the President of the Management Board.