



# **BINTULU PORT HOLDINGS BERHAD GROUP OF COMPANIES**

## **CONFLICT OF INTEREST POLICY FOR BOARD OF DIRECTORS**

27 February 2023

## **1.0 INTRODUCTION**

- 1.1 As fiduciaries, Directors have a legal duty to act in the best interest of the company at all times.
- 1.2 This includes a duty to act with the highest level of integrity and professionalism and to not take advantage of the trust placed in them by the company or its stakeholders.
- 1.3 It is also imperative for the Directors to avoid any conflict of interest that may arise in the performance of their duties.

## **2.0 OBJECTIVE OF THE POLICY**

The objective of the Conflict of Interest Policy for Board of Directors (“the/this Policy”) is to assist the Board of Directors (“the Board”) of Bintulu Port Holdings Berhad (“the Company”) and its subsidiaries (collectively referred to as “the Group”) in identifying, disclosing and managing any actual, perceived, or potential conflicts of interest.

## **3.0 SCOPE OF THE POLICY**

This policy shall apply to all members of the Board of Directors, Bintulu Port Holdings Berhad Group of Companies.

## **4.0 DEFINITION OF CONFLICT OF INTEREST**

- 4.1 A Director has a duty to act in good faith in the best interests of the Company at all times.<sup>1</sup>
- 4.2 A conflict of interest occurs when a Director’s personal interests conflict with his/her duty to act in the best interest of the Group and could improperly influence the performance of his/her fiduciary duties and responsibilities.<sup>2</sup>
- 4.3 The term “personal interests” may also arise from the interests of the associates of a Director. A conflict of interest may be actual or potential and includes, but not limited to, the following —
  - 4.3.1 financial and pecuniary interest, or non-financial interest; and/or
  - 4.3.2 an otherwise legitimate private-capacity activities, personal affiliations and associations and family interests, if the interest could reasonably be considered likely to improperly influence a Director’s performance of his/her fiduciary duties and responsibilities towards the Group.

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<sup>1</sup> Section 211, Companies Act 2016; Paragraph 3.1.2 of the Board Charter, BPHB.

<sup>2</sup> Managing Conflict of Interest in the Public Sector, Organisation for Economic Co-Operation and Development (OECD).

## 5.0 CIRCUMSTANCES WHICH CONSTITUTE OR MAY GIVE RISE TO CONFLICTS OF INTEREST

Conflicts situations can take many forms which include, but shall not be limited to the following —

- 5.1 *Setting up a competing business.* While in the employment of the Company, a Director must not run any business of his own similar to that of the Company.<sup>3</sup>
- 5.2 *Conducting private business within the Company.* A Director should not use the Company's property for personal gain.<sup>4</sup>
- 5.3 *Betrayal of trust and confidence.* A Director must act in the best interest of the Company and uphold their fiduciary duty to the Company.<sup>5</sup>
- 5.4 *Non-disclosure of personal interest.* A conflict of interest can occur when a Director's personal or familial gain may compromise or appear to compromise their commitments and obligations to the Company.<sup>6</sup>
- 5.5 *Unethical conduct.* Accepting favours, gifts, or other personal benefits from any person having dealings or contractual relationship with the Company including, but not limited to, vendors, suppliers, tenderers, users of port facilities and services.

## 6.0 DISCLOSURE AND RECUSAL

- 6.1 A Director shall disclose to the Board the nature and extent of his interest, whether directly or indirectly, in any transaction or arrangement with the Group as soon as practicable after the relevant facts have come to his/her knowledge; and if the transaction or arrangement or proposed transaction or arrangement is being deliberated at a board meeting, before the commencement of that deliberation, by way of a written notice to all members of the Board and the Company Secretary.<sup>7</sup>
- 6.2 The interested Director may still attend board meetings. However, he/she cannot participate in any discussion while the contract or proposed contract is being considered during the meeting and shall not vote on the contract or proposed contract.<sup>8</sup>
- 6.3 Where there is any change in the nature and extent of the Director's interest subsequent to the disclosure, the Director shall make a further disclosure of such changes.<sup>9</sup>

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<sup>3</sup> *Principles of Conflict of Interest, Sharifullah Abdul Majeed, Legal Herald (July 2017)*

<sup>4</sup> *Ibid*

<sup>5</sup> *Ibid*

<sup>6</sup> *Ibid*

<sup>7</sup> *Employment Misconduct, Ashgar Ali Ali Mohamed & Farheen Baig Sardar Baig, LexisNexis (2016)*

<sup>8</sup> *Section 221(1), Companies Act 2016.*

<sup>9</sup> *Principles of Conflict of Interest, Sharifullah Abdul Majeed, Legal Herald (July 2017)*

- 6.4 If a Director is in doubt whether he/she has a conflict of interest, he/she should seek advice from the Company Secretary.
- 6.5 Members of the Board of Directors are required to annually complete the **Annual Declaration of Interests Form** attached in this Policy as **Appendix A**.

## **7.0 NON-COMPLIANCE WITH THIS POLICY**

- 7.1 If a Director has reasonable cause to believe that an interested Director has failed to disclose a perceived, actual, or potential conflict of interest, he/she should inform the Chairman of the Board and such interested Director of the basis for such belief through the **Declaration of Conflict of Interest Situations Form** attached in this Policy as **Appendix B**.
- 7.2 If the interested Director is the Chairman of the Board, the Director should inform the Chairman of the Audit Committee.
- 7.3 The Chairman of the Board or the Audit Committee (as the case may be) shall bring the matter to the Board and the Board shall afford such interested Director an opportunity to explain the alleged failure to disclose.
- 7.4 If, after hearing the response and making such further investigation as may be warranted by the circumstances, the Board determines that such interested Director has in fact failed to disclose an actual or potential conflict of interest, it shall take appropriate action.
- 7.5 Such actions may include removal from the Board, subject to relevant regulatory authorities' approval, as well as reconsideration of whether the material transaction or material arrangement was made in the best interests of and fair and reasonable to the Group at the time it was undertaken.
- 7.6 The Board will also decide whether such transaction / contract is voidable or / and should be discontinued / terminated.

## **8.0 RECORDS MAINTENANCE**

- 8.1 The Company Secretary shall be responsible for maintaining updated records on each Director's conflicts of interest.
- 8.2 These records shall be made available for inspection by the Auditors or other regulatory authorities upon request.

## **9.0 EXCEPTION TO THE POLICY**

This Policy shall not apply to an arrangement or transaction by the Company with any of its wholly-owned subsidiaries.<sup>10</sup>

## **10.0 REVIEW OF THE POLICY**

10.1 Any revision to this Policy will be submitted to the Board for consideration and approval accordingly.

10.2 This Policy shall be made available on the Company's website through the following link: [www.bintuluport.com.my](http://www.bintuluport.com.my).

10.3 This Policy shall be in line with the laws and regulations of Malaysia. In the event of conflict between this Policy and the laws of Malaysia, the latter shall prevail.

## **11.0 DATE EFFECTIVE**

This Policy shall be in effect from 27 February 2023.

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<sup>10</sup> Section 221(3)(b), Companies Act 2016.

**APPENDIX A – ANNUAL DECLARATION OF INTERESTS FORM**

<b>NAME</b>	
<b>DESIGNATION</b>	

I confirm that —

- a) I have received and read a copy of this Policy;
- b) I agree to comply with its requirements; and
- c) I understand that I owe a fiduciary duty of care to act in the best interests of the BPHB Group and in accordance with its constitutional objects.

<b>Members Appointment(s) Outside BPHB Group</b>	
<b>Nature of Appointment</b>	
<b>Other Interests or Involvement of Connected Person</b>  <i>(Including business interests, directorships, shareholdings, elected office, trusteeship, other public appointments, which may be relevant to any provisions of this Policy).</i>	

Signature : .....

Dated : .....

## APPENDIX B – DECLARATION OF CONFLICT OF INTEREST SITUATIONS

<b>NAME</b>	
<b>DESIGNATION</b>	

You are required to disclose, to the best of your knowledge and belief, any conflict of interest situations with Bintulu Port Holdings Berhad and its subsidiaries (“the Group”), which may include, but not limited to, the following —

- a) a Director of the Group having Close Relationship with an external stakeholder with whom the Group has business relations with, e.g. counterparty of a material contract, governmental body issuing material licences and/or permits;
- b) a Director of the Group having Close Relationship with another Director or Employee of the Group;
- c) a Director of the Group having Close Relationship with a recipient of donation or sponsorship made by the Group; and
- d) a Director of the Group having Close Relationship with a competitor of the Group or with a party which may have a direct interest or a directly conflicting interest with the Group.

**Note:**

“Close Relationship” refers to any of the following situations —

- (i) being a family member of the other person, where “family” shall have the definition provided in Bursa Malaysia Securities Berhad’s Main Market Listing Requirements, i.e.
  - a) spouse;
  - b) parent;
  - c) child including an adopted child and step-child;
  - d) brother or sister; and
  - e) spouse of the person referred to in (c) and (d) above.
- (ii) being a director, major shareholder, partner, or a person with executive power of an entity or organisation;
- (iii) being a family member of the person referred in (ii) above; and
- (iv) being a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions, or wishes of the other person.

<b>NO.</b>	<b>Name of conflicted party (Actual, or potential)</b>	<b>Relationship with conflicted party</b>	<b>Nature of Conflict of Interest Situation with the Group and Detailed Description (e.g., shareholdings, directorships, and close family member relationship)</b>