

# Private Sector Commission of Guyana

Memorandum and Articles of Association

**April 2007**

**G U Y A N A**

**THE COMPANIES ACT**

**A PRIVATE**

**COMPANY LIMITED BY GUARANTEE**

**AND NOT HAVING A SHARE CAPITAL**

**MEMORANDUM OF ASSOCIATION**

**OF**

**THE PRIVATE SECTOR COMMISSION OF GUYANA LIMITED**

**NAME:**

1. The name of the Company (hereinafter called "The Commission") is "The Private Sector Commission of Guyana Limited".

**REGISTERED OFFICE**

2. The Registered Office of the Commission will be situated in Guyana.

**OBJECTS:**

3. The objects of the Commission shall be:
  - (a) To preserve, promote, propagate and encourage the principles of private enterprise and production through personal and collective initiative and endeavour and to bring together all sectoral and small business organizations and large corporate organizations within the purview of one integrated national representation.
  - (b) To serve as a means of planning co-ordinating and, monitoring the various resources within the Private Sector with a view to improving the economic problems of Guyana, and to encourage members of the Private Sector to implement practical programmes for such improvement. To carry out and promote research, training and technical assistance and resource development by the Private Sector and to develop and sustain a Strategic Plan reflecting these Objects while providing impetus for increasing the competitiveness of individual business nationally and within the Caribbean Single Market Economy and globally.

- (c) To encourage the establishment of a society based on the principles of equality of opportunity, freedom from prejudice and reward for personal initiative.
- (d) To ensure that the technical and financial resources and facilities that are available to the country reach the difference levels of economic activity throughout Guyana, and that they be put to optimum use and in this regard to provide leadership among its members to energise a programme of activities and projects aimed at generating growth in the national economy.
- (e) To bring about a greater understanding, appreciation and acceptance of the role of private initiative, enterprise and savings.
- (f) To work with Government in the study and implementation of plans for social and economic development, in order to establish the necessary understanding and coordination between the Private and Public Sectors in Guyana and to provide vigorous advocacy on behalf of its members to the national and local government entities as well as other regional and international stakeholders.
- (g) To consult and collaborate with Government to ensure that public funds are properly used with maximum efficiency and to encourage and facilitate the formation of productive partnerships among its members, and between its members, the Government and other interested players, including, Donor Agencies.
- (h) To promote better co-operation among the various elements in the Sector so that maximum productivity can be achieved for the benefit of everyone.
- (i) To promote close and decisive co-operation among the existing associations and organizations representing interest groups within the Private Sector, to assist in the formation of any new associations that may help in achieving the objectives of the Commission; and to represent the Private Sector at meetings with other bodies as may be required of it.
- (j) To establish programmes for improving all the skills and talents within the Private Sector and the economy as a whole.
- (k) To establish and maintain standards of ethics based on responsibility to the consumer and the country by setting high ethical standards by which its membership may be guided, and serving as a model for integrity,

independence, accountability, transparency and best practices in the conduct of business.

- (l) To confer, correspond, deal or enter into any arrangements with any Government or authority (supreme, municipal, local or otherwise) or any national or international company, firm, organization or person as may seem conducive to the attainment of the Commission's objectives or any of them.
- (m) Individually, or jointly or in common with any other organization whether a member or not, to purchase, rent, lease or by other means acquire and hold any property, whether real or personal including land, buildings, offices and houses and any furniture, machinery, works, vehicles or equipment which the Commission may deem necessary for the purpose of its operation or any of its undertakings.
- (n) To borrow or raise money and where necessary to give security for the same in such manner as the Commission shall think fit.
- (o) To raise funds:
  - (a) by way of voluntary subscriptions, donations, gifts, devises, bequests and similar means;
  - (b) through organized fund-raising activities of whatsoever kind;
  - (c) by way of solicitation from Governments, governmental agencies, agencies of the United Nations or any other multi-lateral or international agencies foundations and the like.
- (p) To pay salaries and wages out of the funds of the Commission and any other kind of remuneration and expenses to persons employed by the Commission.
- (q) To invest or deal with funds and assets of the Commission not immediately required in such manner as may from time to time be determined by the Commission.
- (r) To sell or otherwise dispose of the whole or any part of the property of the Commission for such consideration as the Commission may think fit.
- (s) To make gifts and grant loans of money or other property for the purpose of the objects of the Commission.
- (t) To meet expenses incurred in the registration of the Commission.
- (u) To cause the Commission to be registered outside Guyana.

- (v) To do all other things as may be deemed incidental or conducive to the attainment of the above objects or any of them.
4. Notwithstanding anything to the contrary in the foregoing objects or in the Articles of Association of the Commission, the Commission shall not be conducted or operated for the pecuniary profit of its members and no part of any net earnings or net income of the Commission shall inure to the benefit of any Member or any other individual. Should there be not earnings or net income on hand at the close of the fiscal year of the Commission, such net earnings shall be used to defray the operating expenses of the Commission for the succeeding fiscal year or years, and for the avoidance of doubt it is hereby stipulated that the income and property of the Commission however derived, shall be applied solely towards the promotion of the objects of the Commission as set forth and no portion shall be paid or transferred directly or indirectly, by way of dividend bonus or otherwise howsoever by way of profit, to any Member of Commission.
- In no event shall the Commission.
- (a) pay any compensation, other than reasonable allowances or salaries or other compensation for personal services actually rendered by; or
  - (b) make any part of its services available on a preferential basis to; or
  - (c) engage in any other transaction which results in a substantial diversion of its net earnings or net income as well as capital to:  
a member, (or any individual or body having close family or business connection with a Member, or to any entity controlled by such Member.)
5. The Commission shall not support with its funds any object, or endeavour to impose on, or procure to be observed by its Members or others, any regulation, restriction or condition which if an object of the Organization would make it a Trade Union. And it is hereby expressly provided that each sub-clause of this Memorandum of Association shall be construed independently of the other sub-clauses hereof and that none of the object mentioned any sub-clause shall be deemed to be merely subsidiary to or limited by the objects mentioned in any other sub-clauses and in any case of doubt or ambiguity this Article and every sub-clause hereof shall be construed in such a manner as to enlarge and not restrict or limit the powers of the Commission.
6. The liability of the Members is limited.
7. Every member of the Commission undertakes to contribute to the assets of the Commission in the event of the same being wound up while it is a member, or within one year after it ceased to be a member, for payment of the debts and liabilities of the Commission contracted before it ceased to be a member, and of the costs, charges and expenses of winding-up and for the adjustment of the rights of the



- 1.4 Member **“Member”** shall mean any member of the Commission who in accordance with these **Articles of Association** is entitled to Vote at a General Meeting of the Commission.
- 1.5 Corporate Member **“Corporate Member”** shall mean any private sector company or any firm, establishment, partnership, group or private sector body incorporated or registered in Guyana, and affiliated to a minimum of two Sectoral or Representative Associations who are members of the **Commission**.
- 1.6 Sectoral or Representative Association **Sectoral or Representative Association** shall mean any agency, organisation or institution registered in Guyana which represent particular categories of Private Sector endeavours such as (but not limited to) Agriculture, Aquaculture, Commerce, Engineering, Forestry, Industry, Insurance, Manufacture, Mining, Services, Small Businesses, Tourism, Trade  
  
and Transport, excluding political parties, the Government and all its various Ministries, departments, agencies and statutory bodies.
- 1.7 Office **“Office”** shall mean the registered office for the time being of the **Commission**.
- 1.8 Definitions
- i) Expressions referring to writing shall, unless the contrary intention appears, be construed as including lithography, photocopy, and other modes of representing or reproducing words in visible form.
  - ii) Unless the context otherwise requires, words or expressions contained in the Articles shall bear the same meanings as in the Act or any statutory modification thereof in force at the date at which these Articles become binding on the Commission.
  - iii) The singular shall include the plural and vice versa and the masculine shall include the feminine and the neuter and vice versa.
- 2.1 Membership of the Commission The membership of the **Commission** shall consist of:

- a) Members as described in **Article 1.5 above**.
- b) Members representing Sectoral Associations or Representative Organisations as described at **Article 1.6 above**.

Each member shall be represented for all purposes at the Commission by an individual who is an officer of that Member appointed in writing by that Member to act on its behalf. The member may at any time by written notice to the Secretary replace its representative.

2.2 Corporate Membership

In order to qualify for Corporate membership, the applicant should satisfy the following criteria:

- a) Have been a member of a minimum of two Sectoral or Representative Associations affiliated to the Commission and have a record of sound membership.
- b) Be proposed for Corporate Membership by two Sectoral or Representative Associations of which the applicant is a member.
- c) Continue to remain a member of two Sectoral or Representative Associations.

**3.0 APPLICATION FOR MEMBERSHIP**

3.1 Submission of Application

An applicant shall submit an application either for admission as a member of a Sectoral or Representative Association or as a Corporate Member. The application shall be made on the prescribed application form for the category of membership and shall be proposed and seconded by members of the Commission entitled to vote.

3.2 Consideration of Application

Consideration may be given by the Council of the Commission to the status of governance obtaining within the applicant organization. Admission to membership shall be at the sole discretion of the Council



#### **4.0 ADMISSION TO MEMBERSHIP**

4.1 Admission Applications for Membership shall be approved by the Council by way of a majority vote of not less than fifty percent of total membership of Council.

The applicant will be formally notified of the outcome of the application by the Secretary.

4.2 Addition to Register of Members The name of the newly admitted member shall be added to the Register of Members of the Commission.

#### **5.0 SUSPENSION OR REVOCATION OF MEMBERSHIP**

5.1 Due Process The Executive Management Committee may at its discretion, suspend or revoke the membership of any Member, or deal with that Member in such a manner as the Committee may deem fit, for any willful breach of these Articles or of any of the standards, rules, regulations, stipulations or by-laws set or otherwise made hereunder or for any misconduct prejudicial to the objects and interest of the Commission, provided however that such suspension or revocation or other penalty shall be proposed at a duly constituted meeting of the Committee and carried by a vote of at least seventy-five percent of the voting Members of the Committee after notice and opportunity for a hearing are afforded the Member complained against.

#### **6.0 REVIEW AGAINST SUSPENSION OR REVOCATION**

6.1 Application for Review Any member who is aggrieved by a decision of the Executive Management Committee made under Clause 5, may within 7 days of notice thereof apply in writing to the Secretary for a review thereof by the next following meeting of the Council. A final decision shall be made a two-thirds vote of voting members of the Council.

## **7.0 WITHDRAWAL OF MEMBERSHIP**

A Member may, without prejudice to such liabilities as it may have incurred by virtue of its Membership, withdraw from Membership of the Commission by giving one month's notice in writing of his intention to withdraw and upon the expiration of such notice shall have no further claim, right or privilege in the Commission and his name shall be removed from the Register of Members of the Commission.

## **8.0 READMISSION TO MEMBERSHIP**

A Member whose membership has been revoked and/or voluntarily terminated and whose name has been removed from the register of Members, may be readmitted to membership by the Council in its discretion upon the presentation of a new application for Membership, supported by such evidence or information as may be required by the Council.

## **9.0 SUBSCRIPTION AND ENTRANCE FEE**

The Council shall have the right to institute and determine the level, if any, of entrance and membership fees and/or subscriptions. The fees and/or subscriptions so determined shall be payable in advance by such date as may be prescribed by the Council with a minimum of one month's notice in writing, to be given to every member.

## **10.0 THE COUNCIL**

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|------|---|---|
| 10.1 | Governing Body  | The Council shall be the governing body of the Commission and shall consist of the representatives from time to time of each Sectorial or Representative Association Member of the Commission and of Corporate Members appointed at each General Meeting of the Commission in accordance with Clause 10.3 |
| 10.2 | Representative of Sectorial or Representative Association | Each Sectorial or Representative Association shall be represented at Council by an individual named in accordance with Clause 2.1   |
| 10.3 | Representatives of Corporate Members                      | The number of Corporate members elected to the Council shall be determined as follows:-<br>(i) Where at the date of election the number of Corporate Members of the Commission does not   |

exceed three, one Corporate Member shall be elected.

- (ii) Where at the date of election the number of Corporate Members of the commission exceeds three but does not exceed ten, three corporate members shall be elected to the Council.
- (iii) Where at the date of election the number of Corporate Members exceeds 10, the number of Corporate Members elected to Council shall be thirty percent of the number rounded up of the Sectorial or Representative Association Members affiliated to the Commission.

Nominations for election under this clause shall be made by Corporate Members only.

The nominees selected to the Council shall be those Corporate Members which receive the highest number of votes from a single vote of the Corporate Members” specially convened for this purpose before the Annual General Meeting.

10.4 Appointment of Representatives

All representatives to Council shall be duly nominated by the Sectorial or Representative Associations and the Corporate Members seven days before the Commission Annual General Meeting at which the Council shall be appointed.

10.5 Meetings of Council

The Council shall meet as often as is necessary but not less than once monthly and the first of such meetings of the Council shall take place at the earliest possible date following the Annual General Meeting of the Commission, but no longer than twenty-eight days thereafter.

The Secretary, with the approval of the Council shall give seven days notice of all meetings of the Council to each member of the Council

The meetings of the Council shall take place at the times directed by the Chairman, provided however that on the requisition in writing of at least a simple majority of the members of the Council, the Secretary shall convene and give seven days notice of a meeting of the Council.

- 10.5.1 Election of Officers
- The Officers of the Commission, who shall also be the officers of the Council, shall consist of a Chairman, Vice-Chairman, a Secretary and a Treasurer, all of whom shall be elected from among its members at the first meeting of the Council by secret ballot.
- The election shall be between those members of Council who have accepted the nomination.
- Where a member holds either of the offices of Chairman or Vice Chairman for two consecutive years, the member or the individual shall be ineligible to hold that office for the next following three years.
- 10.5.2 Quorum
- For any meeting of the Council a Quorum shall be a simple majority of its members.
- 10.5.3 Resolutions by the Council
- A resolution in writing signed by all the Council Members for the time being in Guyana being not less than a quorum (a simple majority) of the Council Members then in Office shall be effective as a resolution passed at a meeting of the Council duly convened and held.
- 10.5.4 Tie in Voting
- In the event of a tie in the voting at any meeting of the Council the Chairman shall have a casting vote.
- 10.5.5 Attendance or voting by Proxy
- There shall be no attendance by proxy or voting by proxy at any meeting of the Council.

## **11.0 EXECUTIVE MANAGEMENT COMMITTEE**

- 11.1 Composition
- The Council shall appoint the Executive Management Committee who shall comprise of the following elected officials: Chairman, Vice-Chairman, Secretary and Treasurer; along with the following appointees: Chairmen of Sub-Committees (where not elected officials); Coordinator of Corporate Members' Group.

The Executive Director shall be a member of the Committee

- 11.2 Functions The function of the Executive Management Committee shall include:
- (i) Coordinate the overall activities of the PSC.
  - (ii) receive and discuss reports from Sub-committees and give direction as may be necessary.
  - (iii) Make representation on issues affecting the private sector
  - (iv) Receive reports from the Executive Director on operational issues and provide guidance as necessary.
  - (v) Report to Council on activities and developments between Council meetings and obtain Council's approval on policy issues.

## **12.0 SUB-COMMITTEES**

- 12.1 Sub-Committees The Council may delegate its functions to a committee appointed by it for that purpose comprising such members of the Council as it may determine and may appoint a Chairman and Vice-Chairman of each Committee.

## **13.0 MEETINGS OF THE COMMISSION**

### **13.1 The Annual General Meeting**

- 13.1.1 Register of Members The Register of Members of the Commission for the purpose of convening the Annual General Meeting, shall be deemed closed twenty-one days prior to the date of such meeting.

- 13.1.2 Notice of Annual General Meeting The Annual General meeting of the Commission shall be convened at a time and place determined by the Council but no later than the sixth month of each calendar year. The Secretary shall give twenty-one days notice of such meeting.

- 13.1.3 Representatives to Annual General Meeting Each Sectorial or Representative Association shall be represented at the Annual General Meeting by a nominee named for this purpose. Corporate Members shall be

represented by nominees determined in accordance with Article 10.3 and 10.4.

Each Member shall at least three days before the Annual General Meeting give to the Secretary the name of the representative of the Member who shall attend and vote on the Member's behalf.

#### 13.1.4 Quorum

A quorum for the Annual General Meeting shall be a simple majority of its members.

#### 13.1.5 Agenda

At the Annual General Meeting the commission shall:

- i) Present the Report of the Council for the Previous year.
- ii) Present the Statement of Accounts for the Previous year duly audited.
- iii) Appoint the duly nominate representatives to the Council in accordance with Articles 10.2 and 10.3
- iv) Consider the appointment of an Auditor and Officers
- v) Pass any resolution of which notice has been given to the Secretary at least twenty-one days before the meeting and of which the Secretary shall give fourteen days notice to the members entitled to vote.

#### 13.2 Special Meetings

In urgent cases the Chairman shall be at liberty to summon a Special General Meeting giving 14 days notice as aforementioned or on requisition in writing of a simple majority of the members of the Commission entitled to vote, the Secretary shall convene and give fourteen days notice of a meeting of the Commission, notwithstanding that the Chairman has not directed same.

For the purpose of dealing with special resolutions as provided for by Article 10.5.3 to add, alter or amend any Articles shall be deemed as a Special General Meeting.

14.0 **OFFICERS OF THE COMMISSION**

14.1 The Chairmanship The Chairman shall be the senior officer of the Commission and shall be entitled to and preside at all meetings of the Commission and Council and except as otherwise provided for, shall have an original and a casting vote. The Chairman shall at all such meetings have complete authority on every question of order or procedure.

14.2 Vice Chairman In the absence of the Chairman the Vice-Chairman shall summon and preside at all meetings of the Commission and Council and except as otherwise provided shall have an original as well as a casting vote at all meetings over which he may preside.

14.3 Absence of Chairman and Vice Chairman In the absence of both the Chairman and the Vice-Chairman for the time being, at any meeting of the Council, the Council Members then present shall elect a Chairman for that meeting who shall preside and have all the powers of the Chairman at the said meeting.

14.4 Secretary The Secretary shall keep Minutes of all proceedings of the Commission and the Council and a Register, a list of all Sectorial and Corporate Members. All notices to Sectorial and Corporate Members shall be issued by the Secretary who shall have charge thereof as may be vested in any Executive Director/Secretary appointed as hereinafter provided.

14.5 Treasurer The Treasurer shall have charge of the funds and financial affairs of the Commission.

The Treasurer shall prepare and present annually and whenever required by Council all accounts books together with a statement showing the financial position of the Commission which shall be audited annually by an Auditor appointed by the Council.

All cheques for the payment of money shall be signed by any two of the four presiding officers of the Commission and the Executive Director, or in such manner as the Council may determine from time to time.





- 17.3 Access to Books and Accounts Every Auditor of the Commission shall have a right of access at all items to the books and accounts and vouchers of the Commission and shall be entitled to require from the Council and officers of the Commission such information and explanation as may be necessary for the performance of the duties of the audit.
- 17.4 Certification The Auditor shall sign a certificate at the foot of the Balance Sheet stating whether or not all their requirements as auditors have been met, and shall make a report to the Members on the accounts examined by them, and on every Balance Sheet laid before the Commission in Annual General Meeting during the tenure of office. Every such report shall state whether in the opinion of the Auditors the Balance Sheet is properly drawn up to exhibit a true and correct presentation of the financial state of the Commission and such report shall be read before the Commission in Annual General Meeting.

## **18.0 COMMISSION'S YEAR**

The Commission's year shall be deemed to begin on the first day of January and to expire on the thirty-first day of December the same year. The Officers and other members of the Council shall continue in office until their successors are appointed.

## **19.0 ACCOUNTS**

- 19.1 Commission's Financial Year The Commission's financial year shall run from 1<sup>st</sup> January to 31<sup>st</sup> December or such other period as the Council may determine.
- 19.2 Keeping of Proper Books of Accounts The Council shall cause proper books of accounts to be kept with respect to all sums of money received and expended by the Commission and the matters in respect of which the receipt and expenditure take place.
- 19.3 Inspection of Books The books of accounts shall be kept at the office or at any such other place or places as the Council may determine, and (subject to any reasonable restrictions as to time and manner of inspecting the same that may be imposed by the

Council or by the Commission in General Meetings) such books of account shall be open to audit at the request of Members.

19.4 Statement of Audited Accounts At the Annual General Meeting in every year the Council shall lay before the Meeting a statement of audited accounts showing the income and expenditure of the Commission during the previous financial year ended not more than nine months before such meeting.

19.5 Balance Sheet A Balance Sheet shall be made out and laid before the Commission at the Annual General Meeting in every year made up to a date not more than nine months before such a meeting. The Balance Sheet shall be accompanied by a report of the Council upon the general state of the Commission.

19.6 Circulation of Accounts, Balance Sheet and Report In the manner herein directed a copy of the accounts, balance sheet and report shall be served on every member entitled to receive notices of general meetings not less than twenty-one days before the Annual General Meeting.

## **20.0 LIABILITY OF OFFICERS**

There shall be no personal liability attaching to any member or any Officer of the Commission for anything bone fide done or intended to be done in pursuance of any of the objects of the Memorandum of Association of the Commission and these Articles. The Commission shall not be liable for any act done beyond the scope of the Memorandum of Association and these Articles and by any person in excess of his authority.

## **21.0 POWERS OF THE COMMISSION AND COUNCIL**

21.1 Powers for which no provisions are made The Commission shall have the power to deal with any matters fully within its objects but for which no specific provision has made in the Articles and in this regard interpretation of these Articles by the Commission shall be final.

21.2 Discretionary Power The Council may in its discretion, from time to time establish standards and formulate and set rules, regulations, stipulations and by-laws and later amend or vary the same to

regulate and govern all aspects of the work or undertakings of the Commission in accordance with its objects, provided that such standards, rules, regulations, stipulations and by-laws shall not be inconsistent with these Articles or the Act.

## **22.0 SEAL AUTHORIZATION OF DOCUMENTS**

The Commission shall have a Common Seal and the Council shall provide for the safe custody thereof.

- 22.1 Affixing of Seal                      The Common Seal of the Commission shall not be affixed to any instrument or document except with the authority of the Council. Any instrument or document executed by the Commission under Seal or required by the Articles to be executed under Seal shall be deemed to be sufficiently executed if the Seal is affixed thereto and it is signed by the Chairman and the Secretary, or in such other manner as the Council may from time to time determine.
- 22.2 Documents NOT Executed Under Seal                      Any document not executed or not required to be executed under Seal and any cheque or negotiable instrument shall be sufficiently signed by the Chairman, a Council Member and the Secretary or Treasurer or in such manner as the Council may from time to time determine.
- 22.3 Power to Authenticate Documents                      Any Council Member, as the Secretary, or any member appointed by the Council for the purpose, shall have the power to authenticate any documents affecting the constitution of the Commission (including the Memorandum and the Articles of Association) and any Regulations or By-laws made by the Council and any Resolution passed by the Commission or the Council and by books, records, documents and accounts relating to the business of the Commission and to certify copies thereof or extracts therefrom as true copies of extracts.

## **23.0 AMENDMENTS OF ARTICLES**

Any Member wishing to propose any addition, alteration or amendment of these Articles shall forward the same in writing in the form of a special resolution to the Secretary at least twenty-one clear days prior to the meeting of the Commission at

which it proposes to move such an addition, alteration or amendment. The Secretary shall give due notice to the Members, which notice shall contain the full text of such special resolution and shall be given not less than fourteen days before the date of the meeting. Such meeting shall, except for the Annual general Meeting is deemed a Special Meeting.

#### **4.0 GENERAL**

The number of members with which the Company proposed to be registered is five, but the Council may from time to time register an increase of members. This Company is a Private Company under the Companies Act. The number of members shall never exceed fifty. No invitation will be issued to the public to subscribe for any shares or debentures of the Company and any share issued can only be transferred to other members.

WE, the several persons whose names and addresses are subscribed are desires of being formed into a Company in pursuance of the Memorandum of Association.

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NAMES, ADDRESSES AND DESCRIPTIONS OF SUBSCRIBERS

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Dated April, 2007