



MSM MALAYSIA HOLDINGS BERHAD

**TERMS OF REFERENCE OF BOARD OF DIRECTORS OF
MSM MALAYSIA HOLDINGS BERHAD**

A handwritten signature in dark ink, appearing to read 'Tan Sri James', is written over a horizontal line. A long, sweeping diagonal line extends from the bottom right of the signature across the page.

Chairman, Board of Directors

Approved By : Board of Directors

Approval Date : 22nd February 2013



MSM MALAYSIA HOLDINGS BERHAD
BOARD TERMS OF REFERENCE

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1. INTRODUCTION

- 1.1 This Terms of Reference of the Board of Directors of MSM Malaysia Holdings Berhad (“Board Terms of Reference”) sets out the requirements of the Board of Directors of MSM Malaysia Holdings Berhad as at the date hereof.
- 1.2 Unless otherwise stated in this Terms of Reference, “the Company” and “MSM” refers to “MSM Malaysia Holdings Berhad”. “The Group” or “MSM Group” refers to MSM Malaysia Holdings Berhad Group of Companies.
- 1.3 The Terms of Reference sets out the role, composition and responsibilities¹ of the Board of Directors of MSM (“the Board”).
- 1.4 The Terms of Reference aims to ensure that the Board complies with the *Main Market Listing Requirements of Bursa Malaysia Securities Berhad* (or “the Exchange”). In addition, the Terms of Reference also recognizes and aims to adopt related best practices and guidance from the following documents:
 - i) The *Malaysian Code of Corporate Governance 2012*, (“the CG Code”), which provides principles and best practices for good corporate governance and accountability of companies and their boards of directors.
 - ii) The *Corporate Governance Guide* (“the CGG”) issued by Bursa Malaysia in 2007, which is designed to help directors understand their roles and duties to the company and its stakeholders.
- 1.5 The Terms of Reference shall be assessed and reviewed at least once annually and updated as necessary, especially when there are changes to the Listing Requirements and the Code. Any change to the Terms of Reference shall be recommended to the Board for its approval.

The Board Terms of Reference is made available for reference in the Company’s website at www.msmholdings.com.

2 THE BOARD’S ROLES AND RESPONSIBILITIES

- 2.1 The Board should assume, among others, the following responsibilities² :
 - a) *Reviewing and adopting a strategic plan for the company*
The role of the Board is to review, challenge and approve management’s proposal on a strategic plan for the company. The Board is also responsible for monitoring the implementation of the strategic plan by management.
 - b) *Overseeing the conduct of the company’s business*
A basic function of the Board is to oversee the performance of management to determine whether the business is being properly managed. The Board must ensure that there are measures in place against which management’s performance can be assessed.

¹ Paragraph 1.6.3 of the CGG

² Recommendation 1.2 of the CG Code



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- c) *Identifying principal risks and ensuring the implementation of appropriate internal controls and mitigation measures*
The Board must understand the principal risks of all aspects of the company's business and recognise that business decisions involve the taking of appropriate risks. The Board must ensure that there are systems in place which effectively monitor and manage these risks.
- d) *Succession planning*
The Board will ensure that all candidates appointed to senior management positions are of sufficient calibre. The Board should also be satisfied that there are programmes in place to provide for the orderly succession of senior management.
- e) *Overseeing the development and implementation of a shareholder communications policy for the company*
The responsibility of the Board is to ensure that the company has in place a policy to enable effective communication with its shareholders and other stakeholders. This policy should include how feedback received from its stakeholders are considered by the company when making business decisions.
- f) *Reviewing the adequacy and the integrity of the management information and internal controls system of the company*
The Board has to ensure that there is a sound framework of reporting on internal controls and regulatory compliance.

3 COMPOSITION

- 3.1 The size of the Board is determined by the Board based on, among others, the following considerations³:
- a) The evolving circumstances and needs of the company in terms of its size, scope or geography.
 - b) The need to achieve an appropriate balance of executive and non-executive directors and the independent elements of non-executive directors. A board with a balanced composition will ensure that no individual or small group of individuals will dominate decision-making.
 - c) The establishment of Board committees becomes impracticable with very small boards.
 - d) Quorum requirements for Board meetings.
 - e) Other factors such as , representation of the interests of certain shareholders or groups of shareholders (e.g. state agencies, pension funds), the technical know-how or experience in the relevant industry/sector, and the Board's diversity of professional experience, race and gender.

³ Paragraph 1.5 of the CGG



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- 3.2 The Board members shall be appointed by and from the Board of MSM, and shall comprise of up to twelve (12) members⁴.
- 3.3 The Board will comprise a majority of independent Non-Executive Directors where the Chairman of the Board is not an independent director⁵.
- 3.4 The Board will identify an independent Non-Executive Director to be the senior independent director to whom concerns may be conveyed by the shareholders or any party.
- 3.5 Collectively, the Board members should have a broad range of financial and other skills, experience and knowledge necessary to guide the business of MSM.
- 3.6 The Board will determine and regularly review the composition of the Board having regard to the optimum number and skill mix of Directors, subject to the limits imposed by the Company's Articles of Association and the terms served by existing Non-Executive Directors.
- 3.7 Non-Executive Directors will be appointed through a letter of appointment to be issued by the Chairman of MSM.
- 3.8 The Board should ensure it is supported by a suitably qualified and competent Company Secretary⁶.
- 3.9 The Company Secretary is responsible for the co-ordination of all Board business, including agendas, board papers, minutes, communication with regulatory bodies and all statutory and other filings.
- 3.10 The Board will appoint at least one Company Secretary. Appointment and removal of a Company Secretary will be subject to the Board's approval.
- 3.11 All Directors shall have direct access to the Company Secretary.

4 AUTHORITY

- 4.1 The Board shall have the following authority:
 - a) To investigate any activity or matter within its terms of reference;
 - b) To acquire the resources which are required to perform its duties;
 - c) To have full and unrestricted access to anyone in the Company in order to conduct any investigation and to obtain any information pertaining to the Group;
 - d) To obtain independent professional or other advice; and
 - e) To meet exclusively among itself, whenever deemed necessary.
- 4.2 The Board shall have access to all information pertaining to the company. Management should supply accurate and complete information to the Board in a timely manner to enable the Board to discharge its duties effectively.⁷

⁴ Article 84 of the Company's Articles of Association

⁵ Recommendation 3.5 of CG Code

⁶ Recommendation 1.6 of CG Code

⁷ Recommendation 1.5 of CG Code



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- 4.3 Occasions may arise when the Board has to seek legal, financial, governance or expert advice in the course of their duties. The Board should be able to consult advisers and, when considered necessary, to seek independent professional advice.⁸ The Board should be entitled to do so at the Company's expense through a request made at the Board Meeting or through the Chief Executive Officer or the Chief Financial Officer or the Company Secretary.

5 SCHEDULE OF MATTERS RESERVED FOR THE BOARD

- 5.1 The following are matters which are specifically reserved for the Board and they constitute the key responsibilities of the Board :

5.1.1 Strategy Setting, Implementation and Supervisory

- a) To review the Group's (comprising the Company and its subsidiaries, including associates where relevant) strategic direction, including the approval of corporate exercises or restructuring plans.⁹
- b) To monitor the implementation of the strategic plan by management.¹⁰

5.1.2 Monitoring of Financial Performance¹¹

- a) To approve MSM's annual budget and financial statements and monitoring financial performance against approved budget.
- b) To determine dividend policy and the amount, nature and timing of dividends to be paid.
- c) To approve capital expenditure and/or disposal of capital items sanctioned over and above delegated levels, i.e. where the amount involved exceeds a predetermined threshold given to management.
- d) To conduct a review of the Company's funding requirements on a continuing basis, including significant treasury matters, approval of financing arrangements, cheques and other signatories.
- e) To ensure proper procedures are put in place and that the financial statements (including quarterly/year-end announcements to Bursa Securities) of the Group (comprising the company and its subsidiaries) are reviewed for integrity and approved for timely lodgement with, and/or release to, the various authorities and market.

5.1.3 Internal Control and Risk Management

- a) To determine the company's level of risk tolerance and actively identify, assess and monitor key business risks to safeguard shareholders' investments and the company's assets.

⁸ Recommendation 1.5 of CG Code

⁹ Paragraph 1.6.1 of the CGG

¹⁰ Recommendation 1.2 of the CG Code

¹¹ Paragraph 1.6.1 of the CGG



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- b) To appraise the Company's major risks and oversee that appropriate risk management and internal control procedures are in place.
- c) To consider and approve the MSM Group's overall risk-reward strategy and frameworks for managing all categories of risk, including credit, market, liquidity, equity, reputation and operational risk.
- d) To ensure proper implementation and review the Company's internal controls system.
- e) To establish an internal audit function which reports directly to the Audit Committee.
- f) To select, appoint and terminate the external auditor (including associated recommendations to shareholders for approval).
- g) Oversight of the Board Audit Committee's evaluation of auditor's performance and ongoing independence.
- h) To review relevant arrangements brought forth by the Audit Committee, by which employees may, in confidence, raise concerns about possible improprieties in financial reporting or other matters, and to ensure that arrangements are in place for the independent investigation of such matters and for appropriate follow-up action to be taken. This would include any whistleblowing complaints and investigative reports relating to the senior management of the Group.

5.1.4 Corporate Governance

- a) To establish and maintain corporate governance standards, including but not limited to the standards prescribed by the applicable laws from time to time.

5.1.5 Succession Planning, Self-Evaluation and Appointments

- a) To assume the responsibility of ensuring a succession plan is in place including appointing, training, fixing the compensation of and, where appropriate, replacing senior management. The Board will work with the Nomination And Remuneration Committee on succession planning.
- b) To appoint Directors to fill casual vacancies on the MSM Board;
- c) To select, appoint and determine terms of appointment of the Group President/CEO.
- d) To review succession plans for the Group President/CEO.
- f) To approve policies for appointments to the Board of MSM's subsidiaries



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and appoint directors representing MSM in MSM's jointly controlled entities and associate companies.

5.1.6 Remuneration Review

- a) To review and approve Non-Executive Directors' Board and Committee fees, subject to the Board fees approved by shareholders.
- b) To determine the corporate goals and objectives relevant to the remuneration of the Group President/CEO and evaluating the performance of the Group President/CEO in light of these objectives.
- c) To consider and approve the MSM Group's Remuneration Policy.
- d) To determine the size of bonus / incentive pools as part of MSM's annual plan based on consideration of pre-determined business performance indicators and the financial soundness of MSM.

5.1.7 Setting of Management limits

- a) To approve the limits of authority of the management.

6 ROLE AND DELEGATION TO MANAGEMENT

- 6.1 The Board and Group President/CEO are responsible for the development of strategic objectives for the business and the Group President/CEO is responsible for the achievement of the planned results for the MSM Group.
- 6.2 Management of the MSM Group's day to day operation is undertaken by the Group President/ CEO, subject to specified delegations of authority approved by the Board.
- 6.3 Any matters or transactions outside the delegation of authority must be referred to the appropriate MSM Group Board for approval.

7 BOARD COMMITTEES¹²

- 7.1 The Board has established Committees to assist the Board in exercising its authority, including the responsibilities set out in paragraph 5.
- 7.2 The standing Board Committees are:
 - 7.2.1 Board Audit Committee;
 - 7.2.2 Board Nomination And Remuneration Committee;
- 7.3 The Board may establish ad hoc Board Committees from time to time to consider matters of special importance or to exercise the delegated authority of the Board.
- 7.4 The Board will determine Terms of References of standing and ad hoc Board Committees, which will set out the roles and responsibilities of each Committee.

¹² Paragraph 1.14 of the CGG



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7.5 The Board will determine the membership and composition of Board Committee, having regard to workload, skills and experience.

8 MEETINGS

8.1 Frequency and attendance

- 8.1.1 The Board should meet sufficiently regularly to discharge its duties effectively. The Board generally has at least six (6) regularly scheduled meetings in each financial year, or more frequently as circumstances dictate.
- 8.1.2 The Chairman is responsible, in consultation with the Group President/CEO and the Company Secretary, for the conduct of all Board meetings. This includes being satisfied that the agendas are comprehensive, that all agenda items are appropriate and that recommendations fit within Board strategic direction set by the Board¹³.
- 8.1.3 Members of executive management (Group and Subsidiaries' Executives) may be invited to attend selected Board meetings.

8.2 Quorum

- 8.2.1 In order to form a quorum for the meeting, the majority of the members present must be independent Directors.
- 8.2.2 In the absence of the Chairman, the members present shall elect a Chairman for the meeting from amongst the members present.

8.3 Minutes

- 8.3.1 The discussions and conclusions of the Board meetings should be minuted and the minutes so entered into the minutes Register kept by the Company Secretary.
- 8.3.2 Keeping of the minutes must comply with the requirements of the Companies Act, 1965.
- 8.3.3 Reproduction of any part of the minutes can only be through/by the Company Secretary.

9 DIRECTOR INDEPENDENCE

- 9.1 The Board has adopted a definition of independence setting out the interests and relationships to be considered by the Board in assessing the independence of each Director in accordance with the Bursa Listing Requirements and the Corporate Governance Code¹⁴.
- 9.2 The Board assesses independence of Directors upon appointment and annually through an attestation by each Director.

¹³ Suggested under Paragraph 2.1.2 of The Green Book

¹⁴ Definition as per Practice Note 13 of the Exchange



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9.3 The Board collectively, and each Director individually, has the right to seek independent professional advice, subject to the approval of the Chairman, or in the Chairman's absence, the Board.

9.4 Reinforcing independence:

9.4.1 The tenure of an independent Director should not exceed a cumulative term of nine years. Upon completion of the nine years, an independent Director may continue to serve on the Board subject to the Director's re-designation as a non-independent Director¹⁵.

9.4.2 The Board must justify and seek shareholders' approval in the event it retains as an independent Director, a person who has served in that capacity for more than nine years.

10 BOARD PERFORMANCE

10.1 The Board will undertake ongoing assessment and review of performance of the Board, Committees and individual Directors annually¹⁶.

10.2 The Board should ensure its members have access to appropriate continuing education programmes¹⁷.

11 ETHICAL STANDARDS

11.1 Board members are expected to observe the highest standards of ethical behavior.

11.2 The Board supports and encourages policies within MSM Group which require Directors and employees to observe high standards of personal integrity and display honesty in their dealings.

12 CONFLICTS OF INTEREST¹⁸

12.1 Directors are expected to avoid any action, position or interest that conflicts with an interest of the MSM Group, or gives the appearance of a conflict.

12.2 A Director that has a material personal interest in a matter that relates to the affairs of the MSM Group must give the other Directors notice of such interest.

12.3 The Company Secretary will maintain a register of dealings in securities and declarations of interest by Directors and report them to the Board as necessary.

13 REVIEW OF TERMS OF REFERENCE

13.1 Board and Committee Terms of References will be reviewed at least annually.

¹⁵ Recommendation 3.2 of CG Code

¹⁶ Recommendation 3.1 of the CG Code

¹⁷ Recommendation 4.2 of the CG Code

¹⁸ Consistent with Section 131 of the Companies Act 1965, as amended up to 1 January 2006