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**THE PROVINCIAL GOVERNMENT ACT 1997
(NO.7 OF 1997)**

**MALAITA CHAZON DEVELOPMENT AUTHORITY
ORDINANCE 2012**

AN ORDINANCE to establish a Public Authority to be known as the Malaita Chazon Development Authority, to provide for its incorporation, functions and powers and for matters related therewith and also repeal the Malaita Development Authority Ordinance 1987 and matters related thereto.

ENACTED by the Provincial Assembly of Malaita Province with the assent of the Minister -

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PART 1 - PRELIMINARY

Short title and
Commencement

1. This Ordinance may be cited as the Malaita Chazon Development Authority Ordinance 2012 and shall come into force on the date of Publication in the *Gazette*.

Interpretation

2. In this Ordinance, unless the context requires otherwise-
 - "area of investment" means any of the investment listed in Schedule 1 including any amendments from time to time;
 - "Assembly" means the Malaita Provincial Assembly;
 - "Authority" means the Malaita Chazon Development Authority established under this Ordinance;
 - "enterprise" means any activity, business or undertaking carried on by a person, public or private, profit, or non profit, for himself or as agent or trustee of another, affecting the economic development of the Province;
 - "limited liability enterprise" means an enterprise that is a company registered under the Companies Act or a society with limited liability registered under the Cooperative Societies Act;
 - "Executive" means the Malaita Provincial Executive;
 - "Financial interest" means owning equity share capital in any enterprise;
 - "financial year" means the twelve (12) months ending 31 March;

"General Manager" means the General Manager of the Authority appointed under paragraph 5 of Schedule 2;

"member" means a member of the Authority appointed under paragraph 1 of Schedule 2;

"Province" means Malaita Province;

"subsidiary" means any enterprise in which the Authority either is a member and controls the composition of the board of directors or holds more than half of the equity share capital, as more particularly define in Section 148 of the Companies Act;

PART 2 - ESTABLISHMENT, FUNCTIONS AND POWERS OF THE AUTHORITY

Establishment of Authority

3. (1) There is hereby established an Authority to be known as the Malaita Chazon Development Authority which shall be a body corporate under that name with perpetual succession and a common seal; which may in such name, sue or be sued, may enter into contract and, subject to the provisions of this Ordinance may acquire, purchase, take, hold and enjoy real and personal property to every description and may convey, assign, surrender and yield up, charge, mortgage, transfer or otherwise dispose of, or deal with, real or personals property and may do all other things necessary for or incidental to its functions under this Ordinance.

(2) The members of the Authority shall be responsible for the policy and management of the Authority in accordance with the provisions of this Ordinance.

(3) Schedule 2 shall govern the constitution and proceedings of the Authority, including the appointment and remuneration and other matters concerning the Authority and its members.

4. (1) For purposes of furthering economic development, expanding or improving local agriculture, commerce and industry and improving the quality of life of the people of the Province, the functions of the Authority shall be -
- Functions of
Authority
- (a) to provide financing to persons carrying on or proposing to carry on within the Province any limited liability enterprise by investing in the share capital of such enterprise;
 - (b) to establish and carry on within the Province jointly with any other person any limited liability enterprise by investing in the share capital of such enterprise;
 - (c) To participate in the management, control and operation of any enterprise in which the Authority has a financial interest;
 - (d) To provide goods and services within the Province by establishing and carrying on any limited liability enterprise;
 - (e) To initiate, invite and include investments and to seek and accept grants, donations, appropriations and any other form of assistance, financial or otherwise, from any source;
 - (f) To cause to be recorder, surveyed and registered any alienated and custom and land within the Province and to acquire leaseholds in such land for the purpose of facilitating negotiations with investors for the economic development of such lands;
 - (g) To make such grants and loans, provide such guarantees and secure other credit facilities on such conditions as may be approved by the Executive to persons carrying on any enterprise in which the Authority has a financial interest;

- (h) To undertake studies, surveys, investigations and research into any matter affecting any existing or proposed enterprise within the Province; or
- (i) To provide advisory and consulting services to persons engaged in enterprises within the Province;

(2) The functions of the Authority listed in subsection (1) shall be limited to the areas of investment listed in Schedule 1.

(3) In exercising its function, the Authority shall take all reasonable steps necessary to protect the interests of customary landowners including, but not limited to, assisting them in negotiations with investors.

Powers of
Authority

5. (1) For purpose of performing its functions under this Ordinance, the Authority may-

- (a) appoint such employees and agents as its reasonably requires, upon such terms and conditions and on such remuneration as it thinks fit;
- (b) with the consent of the Executive, contribute to any scheme of pensions, gratuities and retiring allowances for its employees;
- (c) act as agent or trustee for persons desiring to invest money or other property in any enterprise within the Province;
- (d) charge fees for services performed by the Authority;
- (e) with the consent fo the Executive, form bodies corporate; or
- (f) appoint members to the boards of companies, societies and other undertakings.

(2) The powers of the Authority listed in subsection (1) shall be limited to the areas of investment listed in Schedule 1.

Additional
function

6. (1) The Executive may, after consultation with the Authority, by order to published in the *Gazette*, require the Authority to exercise such functions and powers not listed in sections 4 and 5 as may be specified in the order, and the Authority shall comply with the order.

(2) The Executive may, after consultation with the Authority, by order published in the *Gazette*, amend Schedule 1.

7. (1) In exercising its functions the Authority shall consider the objectives and policies set forth in any national or provincial Development plan.

Matters of policy

(2) The Authority shall provide the Executive with such information relating to its activities or proposed activities as the Executive may from time to time require.

PART 3 - FINANCE

8. (1) The Authority shall establish-

Funds to be
established

(a) a general fund; or

(b) any special funds for any function, investment or enterprise authorized by this Ordinance.

(2) The fund's established under subsection (1) shall be kept in a separate account.

(3) Monies from a fund established under this section shall not be used for any purpose except that for which the fund was established.

9. The funds of the Authority shall consist of-

Sources of funds

- (a) monies transferred to the Authority from any funds of the Province or National Government;
- (b) income earned from any investment or enterprise;
- (c) monies received by or falling due to the Authority in respect of any loan or guarantee made by it or the interest payable in respect of such loan or guarantee; or
- (d) any others monies from any source invested in, grant, donation or loaned to or otherwise earned by the Authority.

Borrowing powers

10. (1) Subject to subsection (2), the Authority or any subsidiary of the Authority may borrow for itself or for any enterprise in which it has a financial interest.

- (a) by way of temporary loan or overdraft such sum as required to meet the recurrent expenditures; or
- (b) such sum as required to
 - (i) perform its functions under this ordinance, and
 - (ii) provide for capital expenditures.

(2) the aggregate of sums borrowed under subsection (1) shall not exceed such sum as may be fixed by order of the Executive.

11. (1) The Authority may, with the approval of the Executive, Guarantee
 guarantee as it thinks fit the repayment of the principle, interest and other charges
 on any loan raised by any person other than a member, officer, or employee of the
 Authority of a Provincial Assembly member or officer of the Government or
 Province for the purpose of carrying on any enterprise in which the Authority has a
 financial interest.

12. (1) (a) The Authority may, with the approval of the Lending
powers
 Executive, lend money on such terms and conditions as it thinks fit to any
 enterprise for the purpose of carrying on that enterprise in which the Authority has
 an interest.-

(b) The Authority may in no circumstances or on
 any terms lend money to Provincial Assembly
 Members or Officer of the Provincial or National
 Government.

(2) The aggregates of-

(a) the amount of principle and interest outstanding
 on any loan made by the Authority; and

(b) sums the repayment of which have been
 guaranteed under Section 11, shall not exceed
 such sum as may be fixed by order of the
 Executive.

13. (1) Subject to subsection (2) the Authority may invest the Investment
Powers
 funds as its disposal in such manner and under such terms and
 conditions as it powers thinks fit but only inside Solomon Islands.

(2) Any proposed investment over the sum of \$10,000 or
 whereby the Authority or any of its subsidiaries shall acquire
 more than 49 percent of the equity share capital of a body
 corporate shall require the consent of the Executive.

(3) Subsection (2) shall not restrict the power to form
 subsidiaries or other bodiess corporate under section 5(1)(e).

Application
of funds

14. (1) The Authority shall apply the funds at its disposal or such part of its funds as it thinks fit-

- (a) in the exercise of its functions, and
- (b) to the payment of the remuneration, allowances and salaries of its members, officers, employees and agents.

(2) At least 25 percent of the annual net profit of the Authority, as determined by the audit prescribed in section 15, shall be put in a reserve fund to be used for the functions of the Authority.

(3) Any remaining annual net profit may be paid into the Provincial Fund or put in the reserve fund as may be determined by the Executive after consultation with the Authority.

Annual account
report

15. (1) The Authority shall keep proper books of accounts in which shall be true and full audit and accounts of all its affairs and transactions.

(2) The books of account shall be kept at the office of the Authority or at such other places as the members may think fit and shall at all times be open to inspection by the members.

(3) (a) The Authority shall prepare and submit to the Executive within three month after the end financial year a report on the Authority together with detailed profit and loss account showing classifications of revenue and expenditure, a balancesheet and such other statements of account as the Executive may require.

(b) The annual report and all statements of account shall be signed by the Chairman and counter signed by the General Manager.

(4) The Premier shall sign the annual report and statements of account on behalf of the Executive and transmit them to the Auditor General within nine months after the end of the financial year.

(5) (a) The Auditor General shall audit, certify and report on the annual report and statements of account and shall lay copies of them before the Assembly together with his own report.

(b) The Auditor General or any other persons appointed by him to audit the accounts of the Authority may during the time of the audit

(i) summon any member, officer, employee or agent of the Authority to give such information as is necessary for the performance of the audit; and

(ii) require production of any records, books, accounts, vouchers and other documents of the Authority as is necessary for the performance of the audit.

(6) (a) The Assembly shall refer the annual report, statements of accounts and Auditor General's report to the Provincial Accounts Committee which shall review them in accordance with Part IX of the Malaita Province Financial Management Ordinance 1983.

(b) In reviewing such accounts and report the Provincial Accounts Committee shall have the same powers as the Auditor General as stated in paragraph (b) of subsection (4).

(7) If any member of the Authority willfully fails to take all reasonable steps to secure compliance with this section he shall be guilty of an offence and liable on conviction to a fine of \$100 payable to the Provincial Fund.

Indemnity

Indemnity

16. Every member, officers, employee or agent of the Authority shall be indemnified out of the assets of the Authority against any expenses incurred by him.

- (a) in defending any proceedings, civil or criminal, in which judgment is given in his favour or he is acquitted or he is granted relief by the court from liability because he has acted honestly, reasonably and within the scope of his authority; and
- (b) in applying to a court for relief when he believes a claim will be brought against him and he is granted relief as under paragraph (a).

Power to make regulations

17. (1) The Authority may, with the consent of the Executive make regulations for the conduct of its functions.

(2) Members of the Executive, their spouses and children are prohibited from holding any financial interest direct or indirect in any investments, loans, projects, business pursuits, enterprises or transactions in which the Authority is involved or has an interest, should it be discovered that an Executive Member his spouse or children hold a prohibited interest any transactions establishing that interest between the Executive Member, his wife or children, and the Authority, shall be null and void.

Repeal /
Transitional
provision

18. (1) Notwithstanding such repeal from and after the commencement of this Ordinance -

- (a) All staff or employees under the repealed Authority shall continue and deem employees of the Authority established under this Ordinance.

- (b) All property movable and immovable, owned by the Authority immediately prior to that day shall vest in the Authority with further assurance, and the Authority shall have all powers necessary to take possession, recover and deal with such property;
- (c) All rights, powers, privileges and interests arising in or out of such property shall be vested in the Authority and liabilities subsisting on that date shall be deemed to be liabilities of the Authority;
- (d) All contracts and agreements entered into for the purpose of the Authority and subsisting on that day may be deemed to be contracts and agreements entered into by the Authority.
- (e) All actions or proceedings instituted by or against the Authority pending on that day may be deemed to be actions and proceedings instituted by or against the Authority;
- (f) Every ordinance or orders made under the repealed Ordinance as is in force on that day of coming into operation of this section, insofar as such application is not inconsistent with the provisions of this Ordinance shall be deemed to be ordinance or orders made under this Ordinance and may be amended or rescinded by orders under this Ordinance with the approval by the Executive.

Schedule 1
Areas of Investment

ITEMS	DESCRIPTIONS
1	Shipping
2	Ship Building
3	Ship repairs and maintenance
4	Butcheries and fish markets
5	Ground and Air Transport
6	Motor repair
7	Construction
8	Real Estate Development
9	Agriculture and livestock
10	Timber-logging, milling, reforestation
11	Rural markets
12	Wholesaling and retailing of goods
13	Resthouse, restaurant and snack bar
14	Financial institution
15	Manufacturing and processing
16	Commodities Export
17	Tourism, Entertainment
18	Tourism, Entertainment and Recreational facilities
19	Marine Resources
20	Mineral Resources
21	Banking Agencies
22	Stevedoring

Schedule 2**(Section 3)****The members of the Authority**

1. The Authority shall consist of the following members -
 - (a) Five (5) voting members, all of whom have experience in commerce, industry, agriculture, finance or administration, provided that no voting member shall hold elected office in an Area Council, the Assembly or Parliament, nor shall he be a public officer or provincial government officer as defined in the Constitution.
 - (b) Up to five voting members appointed by the Executive to represent regions on Malaita in which the Authority carries on investment activities.
 - (c) Three (3) ex-officio members as follows-
 - (i) the Provincial Secretary or other public officer or provincial government officer nominated by him;
 - (ii) The General Manager appointed pursuant to paragraph 5 of this Schedule;
 - (iii) The Premier or other Executive member nominated by him;
 - (iv) For the purpose of obtaining advice on any particular matter, any person co-opt by the Authority to be a member for such meetings as are required and while so co-opted the person shall have all the rights, duties, remuneration and powers of an ex-officio member.
2. (1) The voting members shall be appointed by the Executive by notice published in the *Gazette* on such terms and conditions as may be specified in their respective letters of appointment for terms of not more than three (3) years and may be re-appointed at the end of each term.

- (2) A voting member may at any time by written notice to the Executive resign his office.
3. (1) The members shall be entitled to such remuneration in respect of their service provided and to be determined by the Authority with the approval of the Executive.
- (2) The members shall be entitled to reimbursement for all reasonable travelling, accommodation and other expenses properly incurred by them in attending Authority meetings or in connection with the business of the Authority.
- (3) Remuneration and expenses payable under this section shall be paid out of the funds of the Authority.
4. (1) Subject to sub-paragraph (2), a voting member may be removed from office if such person
- (a) becomes bankrupt or suspends payment to his creditors;
 - (b) absent from two consecutive Authority meetings without permission of the person presiding;
 - (c) becomes of unsound mind;
 - (d) misconduct in office or abuse of authority; or
 - (e) commits a felony.
- (2) No member shall be removed from office unless-
- (a) An impartial and independent person appointed by the Executive enquires into the allegation of bankruptcy, absence, unsound mind, misconduct, abuse or commits a felony; and
 - (b) The member concerned has an opportunity to defend himself at such enquiry; and
 - (c) The person holding the enquiry recommends removal of the member.
 - (d) Such person is subject to automatic removal under section 12.

5. (1) The Authority shall, with the approval of the Executive appoint a General Manager for such term, at such remuneration and such conditions as they may think fit, who shall have responsibility for the day to day management of the Authority, subject to the general or specific directions of the Authority, and who shall act as Secretary to the Authority.

(2) When by death, removal, resignation or otherwise the office of General Manager is vacant, the Authority may appoint an acting General Manager until such vacancy is filled by regular appointment.
6. (1) Each member shall appoint a person, subject to the approval of the Executive, to act as his alternate during times the member is unable by reason of illness or otherwise to perform the duties of his office.

(2) During such periods of incapacity the alternate shall have all the rights, duties, remuneration and power of the member he is replacing to the exclusion of that member.

(3) A member may revoke the appointment of his alternate at anytime and if the member should cease to be a member then the alternate appointed shall cease to be an alternate.
7. (1) The Authority shall appoint from amongst its members a Chairman and Deputy Chairman of the Authority.

(2) The Chairman shall preside at meetings of the Authority and his absence the Deputy Chairman shall preside.

(3) If neither Chairman nor Deputy Chairman are present, the members present shall appoint one of their numbers to preside at that meeting who shall for that meeting have all the powers of the Chairman.
8. (1) A majority of the voting members and the Chairman, Deputy Chairman, or General Manager shall constitute a quorum.

(2) All acts or decisions of the Authority shall be determined by a majority of the votes of the members present at any meeting and in the event of an equality of votes the person presiding shall have a casting vote in addition to his deliberate vote, if any.

- (3) The members shall meet at such times and places as shall be determined by the Chairman and the General Manager but not less often than once every three months.
- (4) The Authority may make Standing Orders for the conduct of its business not inconsistent with this Ordinance.
9. Subject to the presence of a quorum, the validity of any proceedings of the Authority shall not be affected by any vacancy among the members of defect or irregularity in the appointment of any member.
10. The common seal of the Authority shall be kept in the custody of a person authorized by the Authority and shall be affixed to a document only in the presence and with the authenticating.
- (a) Signature of the Chairman, Deputy Chairman or some other member authorized for that purpose by the Authority, either generally or specially; and
 - (b) Countersignature of the General Manager / Secretary or some other office, servant or agent of the Authority authorized for that purpose by the Authority authorized for that purpose by the Authority, either generally or specially.
11. The Executive shall satisfy itself by due enquiry before appointing a person to be a member or General Manager that such person, his spouse and children have no financial or other interest director indirect in any investments, loans, projects, business pursuits, enterprises or transactions in which the Authority is involved or has an interest other than his duties and functions as a member or General Manager.
12. Should it be discovered by the Executive at any time that a member or the General Manager or their spouses and children have a direct or indirect interest in any investments, loans, projects, business pursuits, enterprises or transactions in which the Authority is involved or has an interest other than his duties and functions as a member or General Manager, that member or General Manager shall be immediately relieved of his position at the Authority by the Executive and any transaction establishing that interest shall be null and void.

Passed by the Malaita Provincial Assembly this twentieth-third day of August, 2012.

MATHEW MAEFAI
Clerk to Assembly

With the Assent of the Minister this day of 2012.

HON. SILAS TAUSINGA
Minister for Provincial Government and Institutional Strengthening

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THE MALAITA DEVELOPMENT AUTHORITY**Standing Orders**

(Made under Section 8 (4) of Schedule 2 of the Malaita Development Ordinance 1987).

Interpretation

1. The definitions in the Interpretation clause contained in the Malaita Development Ordinance 1987 shall apply to these Standing Orders.

Corporate records

2. (i) The Corporate Records of the Authority, including, the Seal, Minute Book, Resolution Book, Securities and Assets Registers, Land Titles and other related documents shall be maintained by the General Manager who shall also be responsible to the Board for their safe custody.

(ii) The General Manager shall also be responsible to the Board for safe custody of all Books of Account.

Board papers

3. Board Meeting Papers, including Notice of Meeting, Minutes of previous Meeting and the current Agenda with supporting documents shall be sent to all Board members by the General Manager not less than seven days prior to the next meeting.

Agenda

4. Any member wishing to place a matter for discussion at a Board meeting must intimate this in writing to the General Manager at least ten days prior to the date of the meeting. The Agenda shall be approved by the Chairman before it is sent out to Members.

Withdrawal of subject

5. A member prior to discussion of a subject he has placed on the Agenda may with the consent of the Chairman withdraw it from the Agenda. Once discussion has begun on a subject it shall only be withdrawn from further discussion by the majority vote of members present and agreeing to that proposal.

Order of business

6. The Order of Business at Board Meetings shall be as follows -

(1) Opening prayer

(2) Minutes of the previous meeting

- (3) Any Statement by Chairman
- (4) Matters arising from previous Meeting
- (5) Items held over for discussion from previous meeting
- (6) New items for discussion
- (7) Any other Business
- (8) Use of Seal
- (9) Date of next meeting

It shall be open to the Chairman to alter the normal order of business where it appears to him to be in the best interest for the conduct of the meeting to do so.

7. (i) Ordinary meetings of the Board shall normally be held Conduct of meetings
bi-monthly or monthly if business demands on a date and place agreed at the earlier meeting.

- (ii) The Chairman, Deputy Chairman or a person so appointed for a particular meeting shall preside. He shall ensure that all members who wish to contribute to a discussion are allowed to do so, and that prior to any vote on the matter being taken.
- (iii) The Chairman shall have power to suspend discussion temporarily on any subject during a meeting to enable members to reflect on their position.
- (iv) All acts and decision of the Authority shall be determined by a majority of the votes of the members present at any meeting. Voting initially shall be by acclamation "Aye" in favour and "No" against. In the event of uncertainty any member may call on the Chairman for a count and each member shall then indicate his vote for or against with the person presiding having a casting vote, as well in addition to his deliberative vote, if any -

Committee
and Board

8. It shall be competent for the Board to appoint adhoc Committees to examine in detail any particular proposal. Each Committee shall appoint from its number a chairman and it shall work in accordance with the remit and within the time limit given to it by the Board. It shall be open to any member or members of a Committee to present a minority report to the Board.

Alternate
member

9. Alternate members may attend any Board Meeting as observers when their Principal is also present. They shall have no voting rights but they may take part in any discussion. They shall also be subject to all obligations of confidentiality and declaring of Financial Interest incumbent on full Board Members. Any expenses incurred by alternate members attending in such circumstances, shall, subject to the approval of the Chairman, be reimbursed.

Declaration
by members

10. At any meeting subsequent to his appointment any member shall forthwith declare any connection, business, family or financial, direct or indirect that he has with any subject under consideration by the Board. Failure to do so may be construed by the Board as misconduct under Section 4(1)(d) of Schedule 2 of the Ordinance if a voting member, or the matter referred to the Executive if a non-voting member.

Public
statement

11. All public statements concerning the Authority's Affairs shall be issued only by the Chairman, or by the General Manager with the prior approval of the Chairman, and subsequent ratification by the Board.

Standing orders

12. These Standing Orders are Supplementary to any provisions in the Malaita Development Authority Ordinance 1987, and in any conflict between the provisions, the terms of the Ordinance shall prevail.

Approved by the Malaita Chazon Development Authority Board thisday of
..... 2012.

CHAIRMAN

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