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KAVAMATKOT APIKHOIYIT
DEPARTMENT OF JUSTICE
MINISTÈRE DE LA JUSTICE

Corporate Registries

Guide

TERRITORIAL INCORPORATION

About this Document

This document provides instructions to help you complete and submit the forms and information required to incorporate a business under the *Business Corporations Act* (BCA). By ensuring that you provide all the required information with your application, you can help Corporate Registries to process your incorporation documents swiftly.

You should note, however, that this package does not tell you everything you may need to know about incorporation. You may wish to consult with legal counsel or other professional advisors to consider other features that might be desirable in your corporate structure, or advise you on choosing a name for your corporation.

Submission Guidelines

Be sure to read the document titled *Corporate Registries –Submissions Guide* (available from our website) so you understand the process, requirements and advantages of submitting your registration via email, and other submission options. The guide also explains how to complete the forms, and how to scan any additional supporting documentation that may be required.

Fees

Please consult the *Business Corporations Act Fee Schedule* for current fees.

About Incorporation

To receive a Certificate of Incorporation, you must submit all of the following:

- a *Name Search and Reservation* request form with the search/reservation fee, except where you are requesting a numbered name;

- Form 1, Articles of Incorporation;
- Form 2, Notice of Registered Office;
- Form 4, Notice of Directors;

Naming Your Corporation

You can choose a distinctive word name or a numbered company name (such as 1234 Nunavut Limited). If you choose to incorporate a numbered company we will assign the number. The request for a number name should be made when you file the Articles of Incorporation and pay the incorporation fee.

If you choose a word name, the uniqueness of your proposed corporation within Nunavut must be established. Therefore, you may want to have the name searched and reserved against possible use by others before you file your Articles of Incorporation. If you do not search and reserve your proposed name, it will be searched at the time you file your articles. There is a fee for searching and reserving a name and this fee must be paid when the name is searched.

There is no fee if you choose to have a numbered company.

We will examine your request to determine the distinctiveness of your proposed name and assess whether it meets the name-granting requirements of the Business Corporations Act and Regulations. We will then make a decision to grant or reject it. If your name request is granted, you have a reservation of that name for a 90-day period. If the 90-day period lapses before incorporation, you must make a renewed request for a name reservation with us.

What Does the Registry Do?

The Registry will check that your articles are complete and in proper form, and that the name is acceptable. If so, the Registry will issue a Certificate of Incorporation showing the date of incorporation. If you prefer, you may request a specific date of incorporation (this must be a future date). Applications bearing deficiencies will be returned to the applicant with information indicating the nature of the deficiency.

What Happens When an Application is Deficient?

Deficient applicants will be returned to the applicant with information indicating the nature of the deficiency. No fees are charged in such cases.

Instructions

To incorporate a territorial corporation, follow these steps:

1. Decide on a name for your corporation. See the section below for more information.
2. Complete the *Articles of Incorporation* (Form 1). See the section below for more information on parts of this form.
3. Complete a *Notice of Registered Office* (Form 2). See the section below for more information on parts of this form.
4. Complete a *Notice of Directors* (Form 4). See the section below for more information on parts of this form.
5. Print, sign, and scan the above forms as PDF files.
6. Contact Legal Registries with a credit card number for us to keep on file and to which we can charge the name search and reservation fee and the incorporation fee.
7. Email all PDF files to us at the address on this page, with the subject line as follows:
   Territorial Incorporation – [Name of Company]

We will acknowledge your submission by sending you a Certificate of Extra-Territorial Registration.

Additional Information for Completing Forms

Form 1, Articles of Incorporation

Item 1, Name of Corporation

Write in the proposed name. If the name has been reserved ahead of your submission, ensure that the approved Name Search and Reservation request form is included with your submission. This form will indicate our acceptance of the name, and the name reservation number that was assigned. If the name has not been reserved it will go through the approval process when the articles are filed.

If you are incorporating under a numbered name, leave a blank space on the left hand side, write in the word "Nunavut" and add the legal element of your choice, such as Inc., Ltd., Corp. etc. For example:

_____ Nunavut Inc.

If you are incorporating under a bilingual name, both English and French forms of the name should appear here.

Item 2, Place of Registered Office

The place in the Nunavut where the registered office is to be situated must be described in terms of a broad municipal definition (for example: "Iqaluit, Nunavut") rather than a specific street address. Then, at a later time, if the Corporation decides to move its registered office within the same general place (i.e. within the same community), it will not be necessary to file Articles of Amendment (Form 3), which would have to be duly authorized by shareholders, and would incur a $100 amendment filing fee.

Item 3, Shares

Set out the classes and any maximum number of shares that the Corporation is authorized to issue. Please note:

- All shares must be without nominal or par value.
- The BCA gives incorporators broad discretion to designate a class of shares as common, preferred or as Class A and Class B or any other designation. Many incorporators designate shares simply as Class A and Class B.
- You do not need to place a limit on the number of shares the Corporation is authorized to issue.
- You do not need to specify a maximum aggregate consideration for the issue of shares.

The following sample clauses are often used by incorporators and are acceptable to the Registry to cover some very basic kinds of share structures. The corporation may choose to issue one class of shares only. If two or more classes of shares are issued, you must specify the rights, privileges, restrictions and conditions attached to each class. For example:

> *"The Corporation is authorized to issue an unlimited number of shares of one class."*

Or

> *"The Corporation is authorized to issue an unlimited number of Class A and Class B shares. The Class A shares shall be entitled to vote at all meetings of shareholders except meetings at which only holders of a specified class of shares are entitled to vote and to receive such dividend as the directors in their discretion shall declare. Subject to the provisions of the Business Corporations Act, the Class B shares shall be nonvoting. Upon liquidation or dissolution, the holders of Class A and Class B shares shall share equally the remaining property of the Corporation."*

For shares in a series, the following clause is acceptable:

> *"The directors may authorize the issue of one or more series of shares within each class of shares, and may fix the number of shares in each series, and determine the*

designation, rights, privileges, restrictions and conditions attaching to the shares of each series subject to the limits provided in the articles."

You may use wording similar to the following to specify the redemption of shares. Note that if a fixed price is not stated, a redemption formula that can be determined in dollars must be used.

"The said Class X shares or any part thereof shall be redeemable at the option of the Corporation without the consent of the holders thereof (at a price of $_____per share) or (at a price equal to the amount paid per share) plus any declared and unpaid dividends."

You may vary the composition and complexity of share structures for particular situations in countless ways. The sample clauses given here are only examples of the usual kinds of share structures used by many incorporators, and are by no means mandatory or exhaustive. You may wish to seek legal advice with respect to other clauses to ensure that they are permitted under the BCA.

Item 4, Restrictions on Share Transfers

Restrictions, if any, on the transfer of shares are normally limited to the consent of the directors and/or shareholders. For example:

"No shares of the capital of the Corporation shall be transferred without either (a) the sanction of a majority of the directors of the corporation or alternatively (b) the sanction of the majority of the shareholders of the Corporation."

Or

"No shares of the corporation shall be transferred without the approval of the directors evidenced by resolution of the board, provided that approval of any transfer of shares may be given as aforesaid after the said transfer has been effected upon the records of the Corporation, in which event, unless the said resolution stipulates otherwise, the said transfer shall be valid and shall take effect as from the date of its entry upon the books of the Corporation."

You may wish to further restrict the transfer of shares by designating the Corporation as "non-distributing" a term that replaces the former concept of "private" corporations. Your corporation in effect will be a "non-distributing" corporation unless you file a prospectus or undertake other related procedures to constitute a public distribution of securities (as specified in section 3 of the BCA).

Item 5, Number of Directors

You may specify a range or a fixed number of directors, for example:

" A minimum of 1 and a maximum of 7." Or "Five directors."

To permit cumulative voting, the number of directors must be fixed. If the Corporation is a "distributing" corporation, there must be at least three directors.

Item 6, Restrictions on Business

A BCA corporation has all the rights of a natural person, and normally one would not wish to limit this power. If there are to be no restrictions, simply state "NONE". If, however, there are reasons why you wish to restrict the business of the corporation, the following preamble is suggested:

"The business of the Corporation shall be limited to the following:..."

Note that sections 15 and 16 of the BCA prohibit corporations from conducting the business of insurance, trust, stock exchange, railway, steamship, air transport, canal, telegraph, telephone or irrigation companies.

Item 7, Other Provisions

The BCA allows you to include a number of additional provisions in the Articles of Incorporation. As well, incorporators occasionally include clauses to satisfy requirements of other legislation or institutions. For example, a provision regarding directors' borrowing powers and their delegation is sometimes used to limit the authority of directors and/or to satisfy lending institutions. Mark the item as not applicable if there are no such provisions.

Item 8, Incorporators

The Articles of Incorporation submitted to the Registry must be originally signed by the incorporator(s).

Form 2, Notice of Registered Office

Section 1: The name of the Corporation will be the same as for the Articles of Incorporation.

Section 2: The Corporation's registered office address must be a specific civic address within the place specified in Form 1. Please note that a post office box number is not sufficient.

Section 3: This address cannot be the same address as in item 2 or item 4. If the corporation does not have a separate records office this section must be marked not applicable.

Section 4: If the Corporation designates a post office box in this item, the same post office box cannot be used in item 2 or 3. Mark the item not applicable if the corporation does not have a separate service by mail address.

This form must be dated and signed at the bottom. It can be signed by an incorporator, officer or the solicitor of the company, and the person signing must state their relationship to the company.

Form 4, Notice of Directors

Section 1: The name of the Corporation will be the same as for the Articles of Incorporation.

Section 2: All directors for the Corporation must be listed with their complete postal and physical addresses. The number of directors must correspond with the number in item 5 of Form 1.

This form must be dated and signed at the bottom. It can be signed by an incorporator, officer or the solicitor of the company, and the person signing must state their relationship to the company.

Other Agencies You Should Know About

Our website includes information on other agencies relevant to Nunavut corporations.