

HARRY B. SANDS, LOBOSKY & COMPANY

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MEMORANDUM ON Continuation as a Bahamian International Business Company

The International Business Companies Act, 2000 of The Bahamas came into force on the 29th December, 2000. It provides for the incorporation and regulation of Bahamian International Business Companies ("IBC"). It also provides for certain companies that are not I.B.C.s to "continue" as an I.B.C.

WHO CAN CONTINUE

1. A Company incorporated under the Companies Act of The Bahamas or;
2. A Company incorporated outside of The Bahamas

PREPARATION FOR CONTINUATION

1. The Company must prepare Articles of Continuation.
2. The Articles of Continuation must contain the following information:
 - a) name of the company and the name under which it is to be continued
 - b) place and date of Incorporation
 - c) address of registered office in The Bahamas
 - d) name and address of the registered agent in The Bahamas
 - e) main purpose of the company
 - f) its authorized capital and the currency thereof
 - g) the share rights, designations, preferences, limitations and restrictions of each class of share
 - h) whether the liability of the shareholders is limited or not
 - i) whether there are to be any amendments to the existing memorandum and Articles or Association (or equivalent)
3. As a part of the Articles of Continuation, information must be given as to any amendments that are to be made to the existing Memorandum and Articles of Association. We recommend that in most cases it is more efficient to adopt a new memorandum and articles of association which comply with the requirements of the IBC Act. We can supply a draft of our standard form for review.
4. The Company must adopt the Articles of Continuation in accordance with its existing constitution. For example, this may require the approval by a resolution of a majority of the Directors. We can provide a draft form of the resolution.

TO ACTIVATE CONTINUATION

The Company must submit to the Registrar:-

- (a) A copy of its present constitution i.e. Memorandum and Articles of Association or equivalent.
- (b) If (a) is in a language other than English, a translation thereof into English certified as being a true translation by some official or competent translator.
- (c) The Articles of Continuation.
- (d) If (c) is in a language other than English, a translation as previously mentioned.
- (e) Evidence of its good standing if it is a foreign Company.
- (f) A registration fee as follows:-
 - \$ 700.00 for a Company under the Companies Act with an authorised capital not exceeding \$50,000.00;
 - \$1,000.00 for a Company under the Companies Act with an authorised capital exceeding \$50,000.00;
 - \$ 700.00 for a foreign Company with an authorised capital not exceeding \$50,000.00;
 - \$ 1000.00 for a foreign Company with an authorised capital exceeding \$50,000.00.

The Registrar shall then register the Articles of Continuation and issue a Certificate of Continuation.

The Company may elect provisional registration. If provisional registration is of interest to you then we would be pleased to provide advice in this connection.

EFFECT OF CONTINUATION

Once a Certificate of Continuation is issued the Company then continues as a Company incorporated under the IBC Act. This is unaffected by any contrary provision of the Companies Act or of foreign law. The assets of the Company continue to be vested in it and it continues to be liable for all its obligations. The continuation will have no effect on causes proceedings or orders that affect the Company nor will it release the Company or its officers or members from obligations they have that arose before the continuation.

It may, however, be relevant in the case of a foreign Company to ascertain;

- (a) What effect there may be under the lex situs on property of the Company in a foreign country.
- (b) What will happen to the Company on the register of the foreign country and whether steps have to be taken to liquidate it or strike it off so as to avoid any continuing obligations.

DUE DILIGENCE: We are required under the provisions of the Financial and Corporate Service Providers Act 2000 to have certain information and/or documentation on file with respect to each beneficial owner of every company we represent. All material will be kept in the strictest confidence. The information required is:

- (a) Full details of the names, addresses and contact details, including telephone and facsimile numbers and electronic addresses
- (b) Copies of the relevant pages of the passports of each beneficial owner.
- (c) Details of the principal place of business.
- (d) Two sources of reference which provide adequate indication on the reputation and standing of each beneficial owner

PROCEDURE

If we are instructed in the continuation of the Company then in addition to supplying us with the required items detailed above would you also confirm to us (a) the names of the Directors (they must comprise the majority of the Board but we prefer that all Directors so act) who will sign the resolutions and of the Director who will sign the Articles of Continuation and (b) the name and address to whom we send the resolutions etc. for signing.

Our standard fee in straight forward cases is \$1500.00. Kindly let us have as an advance for our fees and disbursements, in the amount of US\$3,000.00 by way of Bank wire transfer to our Bankers.

Annual maintenance expenses.

The minimum maintenance costs for each year following the date of continuation is as follows:

- a) the annual fee payable to the Registrar General of the Bahamas on the 1st January in each year is \$350.00 where the company has an authorized capital not exceeding \$50,000.00 and \$1,000.00 for those companies with a capital in excess of \$50,000.00
- b) Our fee for providing the registered office, the registered agent and maintaining the company's statutory records are \$600.00 per year payable in advance.

Please address any enquiries to any one of:

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