



Vanuatu International Companies Limited



Constitution

CONFIDENTIAL

Content

1. **VIC Constitution**
2. **Major Parts of Constitution [C1 – C8]**
3. **Share Capital and Members [C9 – C31]**
4. **Directors and Officers [C33 – C47]**
5. **Company Administration [C49 – C64]**
6. **Others**

VIC CONSTITUTION

- Statutory
 - constitution governed by Vanuatu International Companies Act [CAP222]
 - if there is any discrepancy or inconsistency between the constitution and the Act, the Act shall prevail
 - Act -> VFSC -> Constitution -> VIC
- Constitution
 - memorandum and article of association of an international company registered in Vanuatu
 - both English and Chinese in one set of constitution approved by VFSC
 - in case of any discrepancy, the English version prevail
- Currency
 - US dollars or other specified currency



MAJOR PARTS OF CONSTITUTION [C1 – C8]

- Name of Company [C1] - Chinese name is acceptable without the requirement for a confirmation by a notary public
 - Chinese name alone is not allowed
- Registered office [C2, C32] - must have a registered office in Vanuatu
- Registered agent [C3, C32] - must have a registered agent in Vanuatu



MAJOR PARTS OF CONSTITUTION [C1 – C8]

- Object and Purposes [C4 – C5] - the business activities are unrestricted subject to section 10 of the Act (may carry on any business)
 - S10 states that, an VIC cannot:
 - Carry on business in Vanuatu
 - Acquire any land or property in Vanuatu
 - Carry on business with special licence e.g. bank, insurance, trust
 - Invite public to subscribe for shares, debentures, deposit
- Type of company [C6] - limited by shares (registered)
- Amendment [C7] - may amend constitution by resolution of members or directors



SHARE CAPITAL AND MEMBERS [C9 – C31]

- Authorized capital [C9]
 - ICA has no specific requirement
 - VIC adopts the authorized capital
 - standard capital USD\$100,000
- Issued capital [C5(d)]
 - at least one share (one member)
- VIC [C6]
 - limited by shares
 - authorized capital made up of one class of share divided into 100,000 shares of US\$1 par value
- Types of share [C12-1]
 - registered shares
- Bearer share [C12-1]
 - allowed by not recommended
 - subject to custody of Bearer Shares Regulation Order No.64 of 2010 of International Companies Act [CAP222]



SHARE CAPITAL AND MEMBERS [C9 – C31]

- Shares - allotment and issue
 - calls
 - forfeiture of shares
 - alternation of capital
 - Purchase own shares
 - Increase or reduce its shares
 - Change the currency of the shares
 - Change par value
 - Divide any shares
 - Class of shares (powers, preferences, rights, etc.)
 - share certificates
 - distribution
 - dividend
 - acquisition of own shares



SHARE CAPITAL AND MEMBERS [C9 – C31]

■ Capital [C31]

- increase or reduction
- by resolution of directors or members
- reduction of capital subject to solvency test
- can convert from capital to debt

■ Liability of members

[C48]

- limited to the amount owed to the company (unpaid shares)
- not liable for any obligation of the company or creditor of the company



DIRECTORS AND OFFICERS [C33 – C47]

- Appointment, term and removal [C33]
 - first director appointed by incorporator
 - subsequent by members or directors
 - usual terms for a director
 - a director not required to hold share in the company
- Number of director may be fixed by constitution or members [C34]
- At least 1 director [C34]
- Powers of directors [C35]
- Emolument and expenses [C36]
- Committee of directors [C37]
 - setup committees to govern the company



DIRECTORS AND OFFICERS [C33 – C47]

■ Notice and meetings [C38]

- by mail (airmail if available) to the address shown in the register
- not less than two days in writing
- waive the notice if majority directors agree to waive or directors attend the meeting agree to waive
- the inadvertent failure to give notice to a director, or the fact that a director has not received the notice, shall not invalidate the meeting

■ Quorum [C39]

- fixed by directors
- if not fixed, two directors
- if sole director, that director shall constitute a quorum



DIRECTORS AND OFFICERS [C33 – C47]

■ Proceedings [C40]

- any time
- any place
- any mean (phone, electronic means)
- majority votes
- chairman has a second or casting vote
- written resolution by majority of directors shall be valid and effectual as if passed at a meeting of directors [C40(6)] [C41(1)]

■ Managing director [C42]

- appointed by directors resolution



DIRECTORS AND OFFICERS [C33 – C47]

- Alternate directors [C43]
 - a director may appoint or remove any person to act as an alternate director
- Standard of care [C44]
 - act in good faith and in the best interest of the company
 - exercise with care, diligence and skill
 - the company shall indemnify the directors against all liabilities and expenses



COMPANY ADMINISTRATION [C49 – C64]

Meetings of Members, initiated by [C49]

- Directors, at such time, manner and places as appropriate; or
- Members not less than 25% equity shares
 - The directions shall convene a meeting of members not later than 4 weeks after receipt of the written request

Notice of Meetings [C50]

- By mail (airmail if available) to the address shown in the register
- Not less than 7 days notice in writing
- Shorter notice (waive of 7 days notice) shall be valid if majority of members agree to waive
- Specify the time, date and place of meeting and business to be transacted
- To joint holders of shares, to whom whose name stands first in the register of members



COMPANY ADMINISTRATION [C49 – C64]

Proceedings of Meetings [C51]

- Cannot proceed unless a quorum is present
- Quorum
 - Two members present in person or by proxy; or
 - Sole member, that member constitute a quorum
 - Quorum not present within 30 minutes, meeting shall be dissolved
- A member shall be deemed to be presented by telephone or real time electronic means
- Chairman
 - Chairman of board preside the meeting;
 - If absence, other director nominated by the directors preside; or
 - Nominated by members



COMPANY ADMINISTRATION [C49 – C64]

- A director, notwithstanding no share holding, be entitled to attend and speak at any meeting
- Chairman may adjourn meeting
- Resolution by show of hands by simple majority
- Chairman or member (>10% equity) may demand voting by poll
- Chairman has an second or casting vote
- Resolution in writing by an absolute majority shall be valid and effective



COMPANY ADMINISTRATION [C49 – C64]

Voting by Members [C53]

- One share has one vote
- Vote personally or by proxy
- For joint Members
 - Each of them may be present in person or by proxy;
 - If only one present, he may vote on behalf of the other joint holders; and
 - If all joint members present, the vote of the senior shall be accepted to the exclusion of the votes of other joint holders (senior refers to the first name who stands in the register of members)



COMPANY ADMINISTRATION [C49 – C64]

Proxy [C54]

- A member may appoint a proxy to attend meeting on his behalf
- Appointment in writing under the hand of appointer
- May be general or specific instruction how the proxy should act or vote

Register of Members [C55]

- Required by Act
- With all particulars in respect of the members, shares, date



COMPANY ADMINISTRATION [C49 – C64]

Books and Records [C57]

- Shall keep accounts and records to reflect financial position
- Shall keep minutes of all meetings (directors, committees, members) and resolutions
- Shall maintain a register of directors with detailed particulars
- All records shall be kept at
 - Registered office; or
 - Such other places as the directors may determine

Inspection of Books and Records [C58]

- Any director, or any member may inspect the books and records and to make copies
- A member may authorize other by power of attorney to carry out an inspection



COMPANY ADMINISTRATION [C49 – C64]

Audit [C59]

- No annual audit explicitly required
- The directors may, by resolution, call for accounts to be audited (not by members)
- Auditors have the right to access to books and records, to obtain from the officers such information as necessary
- Auditors may attend any meeting at which the audited accounts are to be presented

Authentication or Attestation [C60]

- A director, a secretary or an authorized officer may sign a document requiring authentication
- No need under seal



OTHERS

Debenture [C65]

- A Company may issue debentures on such terms and conditions
- Maintain a register of debentures
- If debenture issued, “the Constitution may not be altered without the consent of the debenture holders”

Redemption of Minority Shares [C70]

- Members holding 90% may give written instruction to the Company to redeem the shares of remaining members
- The Company shall redeem the shares specified in the written instruction
- The Company shall give written notice to each MI stating redemption price, manner in which redemption is to be effected



THANK YOU!



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