

『新事業体設立にかかるフォームについて（標準的定款フォーム、決議証明書サンプル）』

日本貿易振興機構（ジェトロ）

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1. 事業体の設立にかかる定款について

(1) 定款案の承認

事業体の設立に当たり、定款案について商工業省（Ministry of Commerce and Industry ; MoCI）から承認を得る必要があるが、定款案は、実務上は商工業省のオフィスではなく、サウジアラビア総合投資院（Saudi Arabian General Investment Authority ; SAGIA、以下「SAGIA」という）の各ビジネスセンターに駐在する商工業省の職員に提出することが一般的である。

(2) 使用言語

定款案はアラビア語で作成する必要があり、アラビア語以外の言語での定款案の提出は認められない。

(3) 有限責任会社の標準的定款フォーム

商工業省は、有限責任会社（Limited Liability Company ; LLC）についてアラビア語による標準的定款フォーム（Form 1.6）を作成しており、その使用を推奨している（ただし、商工業省のウェブサイトには最新の標準的定款フォームは公表されていない）。当該標準的定款フォームと異なる定款を作成した場合には、標準的定款フォームに従った場合と比べて、定款案の承認を受けるためにより長期の時間を要したり、場合によっては定款案が承認されないこともあり得る。

別紙 1 は、有限責任会社を設立する場合の参考のための英語版定款フォームであり、その内容は、商工業省が作成し、推奨しているアラビア語による最新の標準的定款フォームの内容と完全に一致しているわけではない点にご留意頂きたい。また、実際の定款案の作成に当たっては、不測の不利益を被る危険性を回避するためにも、現地の弁

護士等の専門家に相談することが強く望まれる。

2. 事業体の設立にかかる決議証明書のサンプル

外国投資ライセンス申請（その他の手続でも提出を求められる場合がある）の際に必要な提出書類の一つに、出資法人においてサウジアラビアへの投資と事業体の設立を承認する旨を決議した書面がある。このような書面としては、通常、出資者内部で適正に授権された者が作成した、決議の存在および内容を証する決議証明書（Certificate of Resolution）が利用されている。なお、決議証明書については、標準様式が SAGIA や商工業省で作成、公表されているわけではない。

別紙 2 に有限責任会社を設立する場合の決議証明書のサンプルを掲載するが、実際の決議証明書の作成に当たっては、不測の不利益を被る危険性を回避するためにも、現地の弁護士等の専門家に相談することが強く望まれる。

（なお、新事業体の設立手続と必要書類に関する詳細は、日本貿易振興機構（ジェトロ）のウェブサイト [『サウジアラビアにおける新事業体の設立手続の概要（外国投資ライセンス取得手続、商業登記等を含む）』](#) 参照）

(別紙1) 有限責任会社を設立する場合の英語版定款フォーム

SAMPLE ARTICLES OF ASSOCIATION

A Limited Liability Company

With the help of Allah the agreement has been concluded on _____ (AH), corresponding to _____ (Gregorian), between:

1- _____

_____. (First Party)

2- _____

_____. (Second Party)

(Additional investors, as per company)

Preamble:

Whereas the above-mentioned [two] parties wish to constitute [*Name of the Company*] as a limited liability company, thereupon they have agreed, in their good will and legal standing, to constitute “[*Name of the Company*]” pursuant to the Companies Law & Regulations issued by the Royal Decree No.6 dated 22/3/1385H and subsequent amendments;

Therefore they have agreed according to the following:

Article One: Company Name

The name of the company shall be [] (“the Company”).

Article Two: Company Purpose

The objects of the Company shall be

1. [] (Note that the objects must be explicit, must not violate the limitations of the list of activities restricted to foreign investors)

2. [] _____

_____.

3. [] _____

_____.

4. And generally, all operations of any type which may be linked directly or indirectly to the aforementioned objects, as well as all similar or related objects likely to facilitate the application or development, both on behalf of itself and third parties, in any way.

Article Three: Activities

The Company may own shares or stocks in other existing companies. It may also merge or participate with such other companies and participate with others to constitute limited liability and joint stock companies with activities that are similar to or complements it in accordance with the relevant rules and regulations related to this matter.

Article Four: Head Office of the Company

The Head Office of the Company shall be located in [City's Name] and the Company has a right to open branches either inside or outside the Kingdom whenever the Company wishes at the consent of the partners.

Article Five: Term of the Company

The company has been constituted for a term of [] years, commencing from the date of receipt of Commercial Registration. This term shall automatically be extended for further similar periods unless one of the partners notifies the other partner of his desire not to extend the term at least six months before the expiry of the original or the extended period by a registered letter sent to the other partner' s address.

Article Six: Capital

The capital of the Company has been fixed at [] Saudi Riyals, divided into [] shares in cash, equal in value, the value of each share being [] Saudi Riyals allocated to the partners as follows:

| Names of partners | Number of shares | Share value | Value of all shares | Percentage |
|-------------------|------------------|-------------|---------------------|------------|
| | | | | |
| | | | | |
| Total | | | SAR | 100% |

The partners acknowledge that the shares were allocated between them and the total value of these shares was already paid in and deposited at one of the Saudi banks pursuant to a certificate concerning this matter issued by the bank.

Article Seven: Increase or Decrease of Capital

The Capital of the Company may be increased or decreased at the approval of all the partners if the increase is effected by increasing the nominal value of the Company' s shares or alternatively if the increase is effected by issuing new shares and all partners would pay the value thereof in proportion to their respective shareholding in the Company capital. Except for these two cases, the capital may be increased at the approval of a

majority of the partners who represent at least seventy five per cent (75%) of the Company' s capital. The capital of the Company may be decreased by a decision issued by the General Assembly of Partners provided that it would not be less than the statutory minimum according to the following:

1. If the decision to decrease the capital is made because current capital exceeds the needs of the Company, the creditors of the Company must be invited to express their objections thereto within sixty (60) days from the date of publishing the resolution of decreasing the capital in a daily newspaper distributed in the city where the Company Head office is located. If a creditor objects and submits his documents to the Company within this period of sixty (60) days, the company must pay the Creditor if the request is urgent or past due, or provide a guarantee to fulfill those obligations that is satisfactory to the creditor.
2. If the decision to decrease the capital is made after substantial Company losses, said losses amounting to seventy five per cent (75%) of the capital, the decrease in capital shall not be executed.

Article Eight: Shares

Shares may be transferred between partners and to their heirs apparent. A partner may not waive one or more shares to the others with or without compensation unless the other partner approves. Nevertheless one of the partners may retrieve a share or shares that one of the partners wishes to waive for the others pursuant to item (165) of the Companies Rules & Regulations, including amendments of the Company situation in case of all shares being transferred only to one partner pursuant to the law.

Article Nine: Record of Shares

The Company shall prepare a special record of shares, which

contains the names of partners, number of shares possessed by each of them, and all dispositions affecting the shares. Transfer of share ownership would not be executed against the Company or the others unless the reason of transferring ownership is written in the aforementioned record. The record should include the following:

1. Name of partner, position, nationality, address, number & date of ID or passport.
2. Number of shares and their value, which he owns in the capital.
3. Number of shares and value to be disposed of and stating disposition type (sale or purchase or inheritance or donation or any other act of disposition).
4. Name and signature of transfer and transferee.
5. Date of the act of disposition.
6. Total number of shares owned after the act of disposition.

All pages of this record should be numbered in sequence; pages should not be pulled or torn, the written statements in this record must not be altered or erased.

Article Ten: Management of the Company

1. The company will be managed by a board of directors comprising of [] members whose membership was agreed a priori. Members will be formally listed pursuant to and confirmed by a resolution.
2. The board of directors shall have a Chairman, appointed by the members upon their first meeting. The following

board Members will be appointed by a separate resolution. No director shall be subject to dismissal or removal unless pursuant to a positive vote of seventy five percent of the shares. The board of directors shall have all powers and authority to manage the company with the exception of the powers for which the law requires a resolution of the general assembly. The chief of the board shall have the right to exercise the powers of the board individually and to represent the company before the third parties and before the courts and may delegate any part of this authority to any third party on behalf of the company.

3. Should the Board of Directors have an equal number of votes on both sides in any vote, or in the event of a disagreement among an equal number of directors, then the decision or vote of the Chairman of the Board shall be decisive.
4. Dismissal of Board Members: Members of the board may be dismissed pursuant to a resolution of 75% of the shares of the company without prejudice to the right to claim compensation if such a dismissal occurs without reasonable justification or at an inconvenient time.
5. General Manager: the General Manager of the Company will be [*Name of the General Manager*].

Article Eleven: Auditors

The Company shall have an auditor chosen each year by the partners by means of a resolution passed at the Assembly of Partners. Said auditor must obtain a license in accordance with the Auditors Regulation in the Kingdom of Saudi Arabia. The auditor should observe the implementation of the Company Articles of Association and the Companies Rules & Regulation, verify inventories, final annual accounts, review the budget and submit annual reports to the

Partners' Assembly. For this purpose, he may access and review all books, records, documents and contracts concluded by the Company with the others. He may request any explanations and statements he believes necessary. His wages should be defined by resolution of the partners.

Article Twelve: Assembly of Partners

The Assembly of Partners may be summoned to a meeting by the Board of Directors or according to a request from the Company General Manager or the Auditor to review any matter that should be offered to the Assembly. The Assembly of Partners may also be summoned to a meeting within the next six months of the end of the fiscal year in order to review the report of the Board of Directors concerning the activity of the Company and its financial situation. Furthermore to review the auditor's report, certify the Company budget, its final accounts, decide to distribute profits, appoint another auditor or reappoint the current auditor and define his wages. The Assembly of Partners may be summoned by fax, e-mail, mail or registered letter, and its shall be held physically or by phone or by videoconference or by private agreement.

Article Thirteen: Resolutions of the Partners

Resolutions of the Partners may be issued by consensus with respect to change of Company's nationality or increasing financial burdens to the partners. Except for these items, the Company contract may be modified at the consent of the partners who represent at least three fourths of the capital and the company contract may not be modified at the approval of only one partner even if he owns the majority. Resolutions in matters which are not related to the amendment of the Articles of Association contract may be issued at the consent of the partners who represent at least seventy five per cent (75%) of the capital. A partner may authorize any person to attend the Partners' Meeting and vote on his behalf by a written authorization. The Company may prepare a special registration in which it would note minutes and resolutions of the Partners'

Assembly and the attendees should sign on the minutes and the resolutions being made.

Article Fourteen: Fiscal Year

1. The first fiscal year of the Company starts from its Commercial Registration date and ends on []. Every fiscal year therewith would be twelve months in accordance with the Gregorian calendar.
2. The Company Board of Directors may prepare the Company general budget, profit accounts, losses, reports about Company activities, the Company financial situation and proposals regarding distribution of profits. They will send copies of these documents along with a copy the auditor's report to every partner as well as to the Companies General Administration at the Ministry of Commerce in the course of two months since the date of its preparation.

Article Fifteen: Profits and Losses

Distribution of the net annual profits for the Company after deduction of all public expenditure and costs will be as follows:

1. Retain 10 % of the net profit to form a systematic reserve stipulated in item (176) of the Companies rules & Regulation. The Company may have a right to stop this reserve as soon as it reaches half of the capital.
2. The remainder may be distributed to the partners at their share rates in the capital unless the partners decide to form another reserves or transfer all or part of the profits balance to the sequent fiscal year.
3. In case of losses that would be borne by partners at whatever share rates each of them owns in the capital or

being transferred to the sequent fiscal year and profits may not be distributed until this loss is consumed. If the company losses reached three fourth its capital, the manager should summon the partners for a meeting within thirty days from the date that the loss has reached such extent for considering the continuity of the Company while the partners are bound by the company debts payment, or dissolution of the company. The resolution of the partners would not be correct in this matter unless it' s issued in accordance with item (173) of the Companies Rules & Regulation. If the Company continued to practice its activity without a resolution issued entitling it to resume its activity pursuant to the required condition or be dissolved, the partners would become collectively responsible for all company debts payment and everyone concerned would have a right to demand its dissolution.

Article Sixteen: Dissolution of the Company

The Company may cease to exist by one of reasons for expiration stated in item (15) of the Companies Rules & Regulation. When expired, the Company will enter the course of dissolution pursuant to chapter (11) of the Companies Rules & Regulation, considering in case of optional dissolution, the following should be done:

1. Preparation of Company financial situation on the date of issuance of the partners' resolution to dissolve such company, certified by a licensed auditor to work in the Kingdom, to prove that the company is able to fulfill its commitments and debts towards the others.
2. Payment of all creditors due or conclusion of settlement with them. If such procedure failed, the company may not be dissolved unless a resolution was issued by the Board of Grievance disclosing the bankruptcy of the company according to the company or the creditors' demand

pursuant to the Commercial Court Regulation.

Article Seventeen: Notifications

All notifications between the partners or between them and the company should be provided through registered letters to be directly sent to their addresses stated in the share registration at the Company referred to in Article (9) of this contract.

Article Eighteen: General Rules

1. The Company is liable to all valid regulations in the Kingdom of Saudi Arabia.
2. Whatsoever hasn' t been mentioned herein is subject to the Companies Rules & Regulation.

Article Nineteen: Copies of the Contract

This contract has been issued in [] copies each and every partner received a copy to act accordingly. The other copies shall be presented to the specialized sources in order to enlist the company in the Commercial Registration & Companies Registration.

Article Twenty: Legal Representation

The parties have authorized [*Name of Law Firm*] to complete the necessary procedures for constituting the company and acting before the official agencies and signing on behalf of them regarding this matter. [*Name of Law Firm*] is authorized to execute, deliver and submit all official forms and other document, to answer all questions on behalf of the Company, to open pone a bank account on behalf of the Company, and to do or cause to be done all such acts and things as they may deem necessary of appropriate in order to effect the constituting of the Company.

First Partner:

Signature:

Second Partner:

Signature:

Additional Partners (if any):

Signature:

(別紙2) 有限責任会社を設立する場合の決議証明書のサンプル

RESOLUTION

RESOLUTION OF THE Board of Directors of []

Dated []

I, [], holding the position of [] in [], a private company duly organized and existing under the laws of [] in the country of [], with its principal headquarters found at [] and bearing registration number [] do hereby certify that at a duly convened meeting of the Board of Directors of the company duly called and held on [], at which a quorum was present and acting throughout, the following resolution was duly adopted:

RESOLVED, that the Company shall establish a new limited liability company ("LLC") in Saudi Arabia, to have its headquarters in [], Saudi Arabia, and to achieve this end, the Company shall invest at least SAR [], or such other amount as is required by the Saudi Arabian General Investment Authority ("SAGIA") at the time of application for a Foreign Investment License.

RESOLVED, that the LLC shall be licensed under the laws of the Kingdom of Saudi Arabia for the purposes of:

[Purpose of the Company]

RESOLVED, that the Company intends to establish the LLC in partnership with: [] (the Partner(s)) and that the Company intends to own shares amounting to []% of the LLC, or such other amount as may be agreed among the Partners as shall be indicated in the Articles of Association of the Company.

RESOLVED, that a citizen of [], bearing Passport Number []

issued by [] on [], is hereby authorized, appointed, and empowered in the name of and on behalf of the Company to be the resident General Manager of the LLC in Saudi Arabia, with full power and authority to manage and administer the affairs of the Company in Saudi Arabia, and to do and perform any and all actions consistent with such a management position, including without limitation the power and authority to represent the company and its LLC in relations with third parties and governmental authorities, and the power to open and manage bank accounts in Saudi Arabia on behalf of the LLC. Said General Manager is authorized in the name and on behalf of the Company to do all acts and things, to make all such payments and to execute all such instruments and document as may be necessary or in the opinion of the General Manager, are desirable or proper to effect the purpose of this Resolution.

RESOLVED that should the General Manager be unable to serve in such position for a time or indefinitely, he shall have full power of substitution or delegation to appoint another person or persons to hold such a position as Acting General Manager. Any such Acting General Manager shall have full authority of the General Manager, and shall hold such position until such time as the Company announces by resolution that the Acting General Manager is to serve as its permanent General Manager or a new General Manager is named and appointed by the Company.

RESOLVED, that the Company undertakes to support the LLC upon the completion of its registration in the Kingdom of Saudi Arabia, and in this regard, to provide such management, financial, administrative, and technical personnel and support as shall be necessary or helpful to carry out the purposes for which it is being established.

RESOLVED, that the Power of Attorney dated [], appointing [*Name of Law Firm*] as attorney on behalf of the Company for the purposes of this Resolution is hereby ratified and confirmed.

WITNESSED by my hand this [] day of []

Signature _____

Name []

Title Director

Seal

【関連 URL】

Ministry of Commerce and Industry ; MoCI (商工業省)

<http://commerce.gov.sa/english/>

Saudi Arabian General Investment Authority ; SAGIA (サウジアラビア総合投資院)

<http://sagia.gov.sa/>

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