

## PUBLIC LIMITED COMPANY WITH A BOARD OF DIRECTORS

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Prior to registering your company at the Register of Commerce and Companies, some formalities must be complied with. Documentary evidence will be required in order to complete your registration file.

NB : Submitting a file to apply for registration to the Trade and Companies Register.

The complete file must be brought :

Either to the centre for administrative formalities (“Centre de Formalités des Entreprises”).

Either directly at the registry office (“le greffe”) of the commercial court, pursuant to article R123-5 of the Commercial Code (the “article 3” procedure of decree n° 96-650 of July, 19 1996.

Preliminary procedures before registering at the Trade and Companies Register

Exercising a regulated activity :

If your company exercises a regulated activity (sale of alcoholic beverages, optician, transportation of goods and passengers, etc.), make sure you fulfill the conditions required for this y (diploma, personal qualifications, etc.) in order to obtain the approval, or the authorisation required to be registered with the RCS.

For further information, contact :

- the professional organizations and trade union
- the services of the Préfecture de Paris
- the regulatory authorities (“autorités de tutelle”)(e.g. for transportation, you should refer to DREIF - Direction Régionale de l’Équipement d’Île de France)

Domiciliation : your official business address

You will have to bring evidence to the registry office (“le greffe”) of a regular occupancy of the company’s head office(e.g. copy of the commercial lease, the contract with a domiciliation company, recent electric bill (EDF) or telephone receipts, etc.)

At the time of its formation, a company is authorized to locate its registered office at the domicile of its legal representative and to conduct business there for an unlimited period of time barring any legislative provisions or contractual stipulations to the contrary.

When the company is subject to such legislative provisions or contractual stipulations, its registered office may be located at its legal representative’s domicile for a period which shall not exceed five years from the date of its registration nor shall it exceed the legal, contractual or judicial term of occupation of the premises.

To domicile your company, you may also contact a domiciliation company or business incubators(“pépinière d’entreprise”).

Appointment of an auditor of the formation proceedings

When contribution in kind is brought to the company, the president of the Commercial Court, ruling on petition, must appoint one or more auditors of the formation proceedings. Two copies of the request for appointment

must be brought at the Registry of the Commercial Court.

#### Adoption of the memorandum and articles of association

Drafting the memorandum and articles of association of a company is an essential and very important step in the formation of your company. It can have legal and fiscal consequences on the company and it can influence the social status of the company's manager. To proceed to the adoption of the memorandum and articles of association, the following conditions must be fulfilled :

- Draw up the memorandum and articles of association.
- Proceed to the appointment of the directors. The first directors shall be designated in the memorandum and articles of association. The board of directors must then appoint the chairman of the board, the general manager, and, if need be, one or many assistant general managers (up to a maximum of five).
- Proceed to the appointment of the auditors. Two auditors must be designated in the memorandum and articles of association, a permanent auditor and a substitute.
- Deposit the funds constituting the cash contribution in a blocked account. The funds must be deposited either in a finance company located in France, at the Caisse des Dépôts et des Consignations (deposit and consignment office), or at the notary's office. After , the company's registration the company's legal representative will then produce a certificate of incorporation at the RCS in order to release the funds, which may then be transferred to the company's bank account.
- Register the memorandum and articles of association of the company within one month from the signing by all board members, free of charge, with the appropriate tax collector's office nearest the home of one of the partners of nearest the head office of the company. This formality is not required before registration at the RCS.

Standard memorandum and articles of association forms may be bought in specialized and university bookshops.

#### Publication of the formation of the firm

Contact a newspaper entitled to publish legal notices to announce the creation of your company. The announcement must state the name and legal form of company, the amount of the registered capital, the address of the head office, the purpose of the company (briefly indicated), its duration, the name, first name and home address of the directors, the chairman of the board, the general manager, the assistant general managers, of the members of the executive board, of the members of the supervisory board, of the auditors and of any other persons authorized to bind the company, the conditions to have access to shareholders' meetings and to vote (including the conditions to get a double vote (one vote that is worth two votes), the existence of stipulations concerning the approval ("l'agrément") by the persons transferring some shares and the indication of the body covering applications for approval (if need be), and the RCS with which the company will be incorporated.

N.B. In the event of a purchase or taking into lease management of a business, a legal notice announcing this purchase or taking into lease management shall also be published in an authorized newspaper.

#### Further steps to be taken

Make sure that the name of the company is clearly indicated on your mailbox, or you will not receive the certificate of incorporation ("Kbis" or "K" extract) that will be sent by the Registry.

In order to comply with the regulations, you must buy the company books (minute books, etc.) and get them stamped and signed by the Registry.

Documents to enclose in your file for your registration with the RCS

Acts and documents to produce in appendix to the RCS

One original copy of the memorandum and articles of association dated and signed by all partners personally or

via an original proxy, on production of a special authorisation (if the document is unattested) or one certified true copy (if the document is notarised); the proxies for the signature of the memorandum and articles of association shall be deposited in one original copy .

One copy of the board of directors' report designating the chairman of the board, the person responsible for the general management and the deputy general managers (if applicable), certified true by the legal representative.

One certified true copy of the act conferring the quality of permanent representative of a firm appointed as a director.

One original copy of the certificate of funds deposit, enclosed with a list of the subscribers with the number of shares they subscribed to, and the amount paid by each of them.

If the capital is constituted of contribution in kind, provide the auditor of the formation proceedings' report in one copies dated and signed.

If a corporate body appointed as director has not been registered with a public register or is not part of the European Community, you have to produce two certified true copies of its memorandum and articles of association in force, translated in French if necessary.

Written proofs to enclose with your file

a duly completed and signed M0 application form. One copy shall be brought at the Registry and one copy at the Centre for administrative formalities ("Centre de formalité des entreprises" or CFE).

An original proxy from the legal representative if he has not personally signed the M0 application form.

Evidence of the regular occupancy of the company's head office (e.g.: a copy of the commercial lease, a contract with the domiciliation company, a recent electric bill (EDF) or telephone receipts, etc.)

*It is very important for your company to clearly identify your company's address in order to allow the Registry to mail the certificate of incorporation (Kbis extracts) to you when there is a formality to fulfill or for your partners to contact you. If your company's head office is located at your legal representative's home address, you have to clearly state the name of your company on your mail box and make sure you have fulfilled all the necessary formalities with the post office for the follow-up of your company's mail.*

A copy of the certificate of publication of the notice announcing the creation of the company in a newspaper authorized to publish legal notices.

If the declared activity is regulated, then send a copy of the authorisation delivered by the regulatory authorities ("autorités de tutelle"), a copy of the diploma or title.

In case of purchase, produce :

- A copy of the certificate of publication in an authorized newspaper of the notice announcing the purchase of the business.
- A copy of the stamped and registered business sale contract .

In case of lease management, produce :

- A copy of the certificate of publication in an authorized newspaper of the notice announcing the taking into lease management of the business.
- A copy of the lease management contract.

In case of real estate management, produce:

- A copy of the certificate of publication in an authorized newspaper of the notice announcing the taking into real estate management.
- A copy of the real estate management contract.

In case of business contribution, produce :

- A copy of the certificate of publication in an authorized newspaper of the stamped and registered notice announcing the contribution.
- A copy of the stamped and registered document attesting the contribution.

For the directors (natural persons, as opposed to a corporate body) and for the chairman of the board who is not in charge of the general management

A copy (both sides) of your residence permit in force or a copy of your passport or ID.

A sworn statement, dated and signed by the person concerned, indicating that you have no criminal record. This statement will be scrutinized later by the judge appointed by the president of the commercial court to supervise the RCS.

A certificate indicating the names and first names of the parents, except if this information appears in a relevant document already produced.

For the directors (legal entities, corporate bodies) :

An original certificate of incorporation delivered within the last three months if the entity has been registered, or any official document proving the legal existence of the entity if it has not been registered with the The Trade and Companies Register.

Concerning the permanent representative, produce the documents which are required for the directors (natural persons).

NB : If a corporate body has not been registered with the RCS or is part of a country which is not a member of the European Union, its legal representative must be registered with the RCS. In that event, you have to produce the same documents as the ones required for the members of the board.

For the chairman of the board of directors in charge of the general management, the general manager and the deputy general managers:

A copy of an ID : a copy of a passport or of a national identity card, or a double-sided copy of an unexpired residence permit. The status mentioned on the residence permit must enable its bearer to register at the Trade and Companies Register.

[Click here for further details](#)

A sworn statement, dated and signed by the person concerned, indicating that you have no criminal record. This statement will be scrutinized later by the judge appointed by the president of the commercial court to supervise the RCS.

A certificate indicating the names and first names of the parents, unless this information appears in another document which has already been produced.

For the Auditors :

Provide evidence of their registration on the official auditors' list if it has not been published yet.

The letter stating the acceptance of the designation.