

**RECORDS**

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## RECORDS

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EXPLANATION

## RECORDS

Section 42 of the Act lists the records a company must keep at its Records Office: <sup>(1)</sup>

- (a) **Certificates:**
- incorporation;
  - conversion;
  - amalgamation;
  - continuation;
  - change of name;
  - restoration;
- (b) a copy of each:
- entered **order of the court** made in respect of the company under the Act;
  - **order of the Registrar** made in respect of the company;
  - **affidavit** deposited in the company's Records Office pursuant to the sections of the Act dealing with amalgamations or voluntary dissolutions;
- (c) **Central Securities Register:**
- pre-existing companies must keep their **Registers of Allotments, Transfers, Members, Debentures** and **Debentureholders** as provided for by sections 69 or 79 of the *Company Act, 1996*;
  - however, a pre-existing company need not keep its **Registers of Allotments, Transfers** or **Members** if the whole of the information that was required to be kept under sections 65, 66 or 67 respectively of the *Company Act, 1996*, is included in the company's **Central Securities Register**;
- (d) **Transparency Register**
- (e) **Register of Directors;**
- (f) a copy of each **Consent to Act as a Director** received by the company;
- (g) a copy of each written **Resignation of Director**;
- (h) a copy of any **report** sent to the company with respect to an investigation of the company by an inspector (ss. 248 and 253(1));
- (i) the **minutes** of every meeting of shareholders;
- (j) a copy of each consent **resolution** of shareholders and each consent under section 327(1) (qualifications of liquidators) and, if the consents of the shareholders are expressed on more than one record, a copy of each of those records;

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<sup>(1)</sup> Only pertains to private companies.

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- (k) unless contained in the **minutes** of the applicable meeting or in a consent **resolution**:
- the complete text of any resolution passed at a meeting of shareholders; and
  - a copy of each written disclosure required to be made by any director or senior officer under sections 148(3) or (4) or 153 of the Act;
- (l) the **minutes** of every meeting of directors or of a committee of directors, and, unless contained in the minutes of the applicable meeting, a list of every director present at the meeting;
- (m) a copy of each consent **resolution** of the directors or of a committee of directors and, if the consents of the directors are expressed on more than one record, a copy of each of those records;
- (n) unless contained in the **minutes** of the applicable meeting or in a consent **resolution**:
- the complete text of any resolution passed at a meeting of directors or of a committee of directors;
  - a copy of each written disclosure required to be made by any director or senior officer under sections 148(3) or (4) (obligation to account for profits) or 153 (disclosure of conflict of duty or interest);
  - a copy of each written disclosure required to be made by the company under section 195(7)(a) with respect to financial assistance;
- (o) a copy of each written **dissent** by a director of a **resolution** (s. 154(5) or (8));
- (p) copies of:
- each of the **audited** financial statements of the company and its subsidiaries, whether or not consolidated with the financial statements of the company, including the auditor's reports prepared in relation to those financial statements; and
  - unless included in the above, the financial statements that were prepared in relation to the most **recently completed financial year**<sup>(1)</sup>;
- (q) a copy of any representations and any response with respect to the removal or resignation and the replacement of an auditor (s. 209(5) and (6));
- (r) if the company is an **amalgamated** company, copies of all the **records** listed above for each amalgamating company;
- (s) the signed set of **Articles** adopted by the company on its recognition:
- if a company has adopted by reference, any or all of Table 1 or Table A Articles as its **Articles**, it must keep a copy of that Table. If a copy of that Table is not kept with that particular company's records, but is generally available for inspection and copying at the Records Office, a notation or record confirming that the Table together with that part, if any, of its **Articles** that is not included in that Table, is available;

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<sup>(1)</sup> A copy of the current unaudited financial statements.

- if the company is a pre-existing company, copies of the *Memorandum* and *Articles* that applied to the company on the coming into force of the Act;
  - if a company has wholly replaced its *Articles*:
    - a copy of the original set of *Articles* being replaced; and
    - the replacement set of *Articles*;
  - a copy of every **resolution** or other record altering or replacing the *Articles* with a copy of such resolution attached to the *Articles*;
- (t) if the company was incorporated under the Act, the signed copy of the *Incorporation Agreement*;
- (u) if the company resulted from the **continuation** of a **foreign corporation** into British Columbia under the Act, the records, relating to the period before the continuation of the company, that the foreign corporation was required to keep by the corporate legislation of the foreign corporation's jurisdiction;
- (v) if the company resulted from an **amalgamation** of one or more **foreign corporations** with one or more companies, the records, relating to the period before the amalgamation that each of the foreign corporations was, before the amalgamation, required to keep by the corporate legislation of the foreign corporation's jurisdiction; and
- (w) if the company is a pre-existing company, any records, not otherwise retained by the company under s. 42, that the company was required to keep under the *Company Act*, 1996 that relate to the period before the coming into force of the Act.

Under s. 10 of the Regulation, the records may be kept:

- in an electronic form– virtual record book <sup>(1)</sup> ();
- in a microfilmed form; or
- in paper form (which is the format shown in this *Guide*).

Although the requirement to keep certified copies of records filed with the Registrar (e.g. *Form 11 - Alteration Notice*) or confirmations of forms filed furnished to the company by the Registrar (e.g. changes of directors, changes of addresses), has been repealed, it is suggested that such documents be kept in the Records Book.

## RECORDS BOOK AND MAINTENANCE OF RECORDS

All records to be kept by or on behalf of a company at its Records Office must be in a bound or looseleaf form or, subject to the regulations, kept in any other manner that will allow them to be inspected and copied in accordance with the Act (s. 44). In practice most firms keep the records in three ring binders called *Records Books*.

The Act also requires that certain records required to be kept at the Records Office be stamped with the date and time of their receipt (s. 44(3)). For a list of the documents to be date/time stamped, see page 33. The records should be filed in the *Records Book* as soon as they are received (see the chart below).

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<sup>(1)</sup> For an explanation regarding the creation, conversion and maintenance of virtual records books, see the Evin Ross Supplemental information – <https://www.evinross.ca/GCR/SUPPLEMENT.htm> Virtual Record Books.

Whether kept at the Records Office or at another location, and whether the records are kept in a three ring binder or in electronic format, all the records must be kept so that they may be easily inspected and copied.

The Act specifies in section 44 (4) that the person who maintains the Records Office for the company and any other agent of the company who has a duty to prepare or keep any of the records required by the Act must take adequate precautions in preparing and keeping those records so as to:

- maintain the records in a complete state;
- avoid loss, mutilation and destruction;
- avoid falsification of entries; and
- provide simple, reliable and prompt access.

Although the Act does not describe the format of the *Records Book*, it is customary to insert tabs in the *Records Book* to keep the records separated by subject. Complete *Records Book* binders, including the tabs, blank share certificates, and registers, are available from legal stationery suppliers, or binders may be purchased separately from any office supply store and tabs ordered from a legal printer. Some law firms have the tabs custom printed.

Most firms file the documents under each tab in reverse chronological order, i.e. the newest documents on top.

The tabs generally consist of:

| Name of Tab  | Documents filed under the Tab   |
|--|---|
| <b>Public Documents</b>  |   |
| <b>Charter Documents</b><br>(or:<br><b>Recognition Documents</b> ) | <i>Certificate of Incorporation (Conversion, Amalgamation, Continuation, Restoration)</i><br><i>Memorandum of Incorporation</i> (pre-existing company) <sup>(1)</sup><br><i>Incorporation Application</i><br><i>Articles</i><br><i>Notice of Articles</i><br><i>Alteration Notices</i><br><i>Certificates of Change of Name</i> |
| <b>Court Orders/Affidavits</b>                                     | Copies of all entered <i>Court Orders</i> made in respect of the company and <i>Affidavits</i> deposited at the company's Records Office  |
| <b>Central Securities Registers</b>                                | <i>Central Securities Register</i> for each class of shares   |
| <b>Register of Directors</b>                                       | <i>Register of Directors</i>  |

<sup>(1)</sup> If firm's policy permits it, the Memorandum may be moved to the tab labeled "Historical Records".

| Name of Tab                              | Documents filed under the Tab   |
|--|---|
| <b>Documents filed with Registrar</b>    | Copies of all documents filed with the Registrar such as <i>Address Change, Director Change, Annual Reports</i><br>Certified copies of any documents, other than <i>Notices of Articles</i> and <i>Alteration Notice</i> , received from the Registrar of Companies |
| <b>Consents/Resignations</b>             | <i>Consents to Act as Directors and Officers</i> and <i>Resignations of Directors and Officers</i>  |
| <b>Shareholders Documents</b>            |   |
| <b>Shareholders' Minutes/Resolutions</b> | Minutes of Meetings of the Shareholders and Shareholders Resolutions as well as any documents signed in support of such minutes and resolutions (waivers, consents, etc.)   |
| <b>Financial Statements</b>              | <b>Unaudited <i>Financial Statements</i></b> for the most recently completed financial year<br><b>All audited <i>Financial Statements</i></b> for the company and its subsidiaries  |
| <b>Directors Documents</b>               |   |
| <b>Directors' Minutes/Resolutions</b>    | <i>Minutes of Meetings of the Directors</i> and <i>Directors Resolutions</i> , as well as all documents signed in support of such minutes and resolutions ( <i>Subscriptions for Shares, Waivers, Applications for Transfer</i> , etc.) <sup>(1)</sup>              |
| <b>Shareholders Agreements</b>           | Shareholders Agreement and any amendments   |
| <b>Disclosures</b>                       | <i>Disclosure Statements</i>  |
| <b>Notices of Dissent</b>                | <i>Notices of Dissent</i> by any director   |
| <b>Historical</b>                        | Records required to be kept under the former <i>Companies Acts</i> which are no longer required to be kept under the <i>Business Corporations Act</i>   |
| <b>Share Certificates</b>                | Originals of all <i>Share Certificates</i> , or copies and/or stubs of certificates if the certificates are held elsewhere or copies of written <i>Acknowledgements of Issuance</i> of shares   |
| <b>Transparency Register</b>             | <b><i>Transparency Register</i></b> : Only if it is the law firm's policy to keep the <b><i>Transparency Register</i></b> in the Records Book (see note on page 34) or <b><i>Notice of Location</i></b> (of Transparency Register)                                  |

<sup>(1)</sup> Determine whether it is your firm's policy to file agreements in the Records Book with their enabling resolutions. If it is not the policy, file agreements in the company's corporate file.

## INSPECTION AND COPIES OF RECORDS

### Persons entitled to inspect the records

Section 46 of the Act sets out in detail which persons can inspect what records a company is required to keep under section 42. The company itself may grant permission to any person to inspect all or any of the records, and generally such permission is given to accountants and auditors.

The following is a list of the persons who have the right to inspect **without charge** certain records the company is required to keep under section 42:

- **all** of the records may be inspected by:
  - current directors of the company;
  - the shareholders of the company, if permitted by the company's *Articles*; and
  - any other person, if permitted by the company's *Articles*;
- the records that relate to the period when a person was a director or shareholder of the company may be inspected by:
  - that particular former director of the company; and
  - that particular former shareholder of the company, if permitted by the *Articles* that were in effect immediately before the person ceased to be a shareholder;
- all the records, **save and except** minutes, consent resolutions, disclosures and dissents of the directors (ss. 42(1)(l) to (o) and (r)(iii)) may be inspected by:
  - shareholders or qualifying debentureholders of the company; and
  - former shareholders of the company if those records relate to the respective periods when those persons were shareholders.

On payment of a prescribed fee to the Records Office agent, **any person** may inspect all the records the company is required to keep under section 42, **save and except** minutes, consent resolutions, disclosures and dissents of the directors, minutes and resolutions of the shareholders, financial statements, and representations and responses concerning the removal, resignation or replacement of an auditor (s. 46(5)).

A Checklist for the Inspection of Records entitled “*Due Diligence Records Book Review*” is contained in Volume II Appendix A.

The requirements and restrictions for allowing the inspection of the *Transparency Register* are different (see notes on page 34).

### Time for inspection of records

The inspection of a company's records, as authorized by the Act, may be conducted during statutory business hours unless the company passes an ordinary resolution imposing restrictions on the time when a person, other than a current director, may inspect the records. Such restrictions must permit inspection of the records for a period of at least two consecutive hours per day within statutory business hours (ss. 46(7) and (8)) of the Act and s. 12 of the Regulation).

### **List of Shareholders (s. 49)**

Other than a current director of the company, a person may not obtain a list of shareholders, unless he or she provides the person who has custody or control of the Central Securities Register with:

- an affidavit of the person seeking to obtain a list of shareholders (see *Affidavit of Applicant to Obtain List of all Shareholders* – page 29); and
- the prescribed fee.

### **Copies of records**

In general, if a person who is entitled to inspect a record requests a copy of that record, he or she must pay a prescribed fee to the agent or person who has custody or control of that record. Upon receipt of the request and payment, the agent or person must promptly provide a copy of that record (s. 48(1)(a)).

A shareholder of a company is **not** required to pay a fee to obtain copies of:

- the *Notice of Articles* or *Memorandum* (as the case may be); and
- the *Articles*.

### **Remedies on denial of access or copies**

There are specific remedies for denial of access to records or failure to provide a list or copies of records (s. 50). The person who has been denied access or a list or copies must first apply to the Registrar for an order requiring the company to provide the Registrar with the list or a certified copy of the record in question or provide the Registrar with an affidavit of a director or officer of the company setting out the reason(s) for denial of access, the list, or a copy. If the company does not comply with the Registrar's order within 15 days, the person who has been denied access, a list or copies may apply to the court for a court order.

The procedures for remedying a denial of access or lists or copies are not included in this *Guide*, but will be covered in a future update to this *Guide*.

## **OFF-SITE STORAGE**

Seven years after certain records are received for deposit at the Records Office, they may be removed to and kept at a location other than the Records Office, provided they can be produced within 48 hours of a request (s. 43(1)). This provision resolves the practical problem of storage of old materials that take up valuable and expensive space in the offices of law firms. The records that may be kept off-site include:

- consent resolutions of the shareholders and directors;
- minutes of the meetings of shareholders and directors;
- financial statements;
- if the company resulted from the **continuation** of a foreign corporation into British Columbia, the records, relating to the period before the continuation of the company,

that the foreign corporation was required to keep by the corporate legislation of the foreign corporation's jurisdiction;

- if the company resulted from an **amalgamation** of one or more **foreign** corporations with one or more companies, the records, relating to the period before the amalgamation that each of the foreign corporations was, before the amalgamation, required to keep by the corporate legislation of the foreign corporation's jurisdiction;
- if the company is a **pre-existing** company, each of its Register of Allotments, Register of Transfers, Register of Members, Register of Debentures and Register of Debentureholders, and any records, not otherwise retained by the company under s. 42, that the company was required to keep under the *Company Act*, 1996, that relate to the period before the coming into force of the Act.

In addition, a company may keep all or any of the records referred to in s. 42, with the exception of its *Central Securities Register* (s. 111(4)), at a location other than the Records Office, inside or outside British Columbia designated by the Directors, so long as those records are available for inspection and copying, in accordance with sections 46 and 48 of the Act, during statutory business hours at the Records Office by means of a computer terminal or other electronic technology (s. 43(2)).

**SEAL**

A seal is used to communicate a company's assent to a written document. It is an articulated device containing two disks, a die (which is the bottom ring in which the characters are raised) and a counter (a ring in which the same characters are engraved). The two rings fit together and, when pressed against each other, leave an impression. In the case of a company seal, called a **common seal**, the name of the company is usually in a circle following the outer edge, with the initials "B. C." in the middle.

A seal may be ordered either through a registry agent or through a specialized seal manufacturer (a listing can be found in the yellow pages, under "seals"). Check with the supervising solicitor or your corporate supervisor to find out where your firm usually orders seals.

In the past, all companies had seals. Today it is not usual to order a seal unless the company specifically asks for one.

The requirement for and the use of an official seal for the company is governed by its *Articles* and no longer by statute. Usually the *Articles* of a company provide that the company may have a seal but need not. If the company has a seal it is usual to authorize the seal to be affixed in the presence of:

- any two directors; or
- the chairman or president, and another officer; or
- such person or persons as the directors may, from time to time, appoint by resolution.

Generally, the law firm holds the seal for safekeeping. Seals should not be given out to anyone unless:

- authorized by the supervising lawyer or a partner; and



## REGISTER OF DIRECTORS

### General Notes

A company must keep a *Register of Directors* (s. 126) and enter in that register:

- the full name and prescribed address (see ② below) for each of its directors;
- the date on which each current director became a director;
- the date on which each former director became a director and the date on which he or she ceased to be a director; and
- the name of any office in the company held by a director, the date of the director's appointment to the office and the date, if any, on which the director ceased to hold the office. (s. 126(d)). Note: If an individual is an officer, and not a director, the Act does not specify that a listing of officers only must be kept in the *Records Book*, but in practice firms include the names of the officers in the *Register of Directors* (see ⑧ below).

Section 126 of the Act governs the contents of the *Register of Directors*, but not its format. The format shown opposite is the format adopted by most law firms.

### Preparation

If you do not have a database and document assembly program, the most convenient way to create and complete the form is by using the table feature of your word processor. Pre-printed forms are also available for the *Register of Directors*.

It is important to remember to update the *Register of Directors* every time there is a change.

- ① Insert the names of the incorporators if they are the first directors of the company – see *Notice of Articles* and the **Incorporation** chapter.
- ② Insert the **prescribed address** for the director (see **Directors and Officers** chapter for a definition). It must be an address selected by the director which is either:
  - a delivery address and, if different, the mailing address for the **office** at which he or she can usually be served with records between 9 a.m. and 4 p.m. on business days; or
  - the delivery address and, if different, the mailing address of the individual's **residence**. The delivery address must not be a post office box.

The delivery address for an **office** is the location of that office identified by an address that describes a unique and identifiable location that is accessible to the public during statutory business hours for the delivery of records, but does not include a post office box.
- ③ Insert the effective date of the resolution appointing the person as a director.
- ④ Insert the effective date that the person ceased to be a director (the date specified on the resignation or the date of the resolutions removing him or her from the board of directors).  
Insert the **office** held by the director.
- ⑥ Insert the effective date of the resolution appointing the person as an **officer**.
- ⑦ Insert the effective date the person resigned as an officer or was replaced by another person.
- ⑧ If the person is an officer only, complete as indicated on this line.
- ⑨ If the same person held different offices at different times, complete as indicated on this line – i.e. split the cell horizontally for each appointment.

### Processing

Once completed and checked, place in the *Records Book* under the tab “**Register of Directors**”.

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**REGISTER OF DIRECTORS**

| REGISTER OF DIRECTORS<br>(Section 126)<br>Name of Company: {NAME OF COMPANY} |                                   |                  |             |               |                |             |
|--|-----------------------------------|------------------|-------------|---------------|----------------|-------------|
| Full Name  | Prescribed Address <sup>(1)</sup> | Date Appointed   | Date Ceased | OFFICE HELD   |                |             |
|  |                                   |                  |             | Office        | Date Appointed | Date Ceased |
| ① {NAME OF INCORPORATOR}   | ②                                 | ③                | ④           | ⑤ {President} | ⑥              | ⑦           |
| {NAME OF DIRECTOR}   | ②                                 | ③                | ④           | ⑤ {Secretary} | ⑥              | ⑦           |
| {NAME OF OFFICER} ①  | ②                                 | ③ NOT A DIRECTOR |             | ⑤             | ⑥              | ⑦           |
| ② {NAME OF DIRECTOR or OFFICER}  | ②                                 | ③                | ④           | {President} ⑤ | ⑥              | ⑦           |
|  |                                   |                  |             | {Secretary} ⑤ | ⑥              | ⑦           |
|  |                                   |                  |             |               |                |             |
|  |                                   |                  |             |               |                |             |
|  |                                   |                  |             |               |                |             |
|  |                                   |                  |             |               |                |             |
|  |                                   |                  |             |               |                |             |
|  |                                   |                  |             |               |                |             |
|  |                                   |                  |             |               |                |             |
|  |                                   |                  |             |               |                |             |

(1) Insert the prescribed address for the director. It must be an address selected by the director which is either a delivery address and, if different, the mailing address for the office at which he or she can usually be served with records between 9 a.m. and 4 p.m. on business days; or the delivery address and, if different, the mailing address of the individual's residence. The delivery address must not be a post office box. The delivery address for an office is the location of that office identified by an address that describes a unique and identifiable location that is accessible to the public during statutory business hours for the delivery of records, but does not include a post office box.

## CENTRAL SECURITIES REGISTER

### General Notes

A company must maintain a *Central Securities Register* (s. 111(1)) and must keep it at the company's Records Office or at any other location inside or outside B.C. designated by the directors (s. 111(4)). The company must register in its *Central Securities Register*:

- all shares issued by the company; and
- all shares transferred by the company

after the coming into force of the Act (s. 111).

For a pre-existing company, the *Central Securities Register* must also record all the shares of the company held by shareholders on the coming into force of the Act (s. 436(1)(c)). To fulfill this requirement we would suggest you prepare a *Central Securities Register* for all share transactions that occur after the date that the Act comes into force, but you may stamp "**Central Securities Register**" on the existing **Register of Members** to comply with section 436 requirements. This should suffice because the Act governs the contents of the *Central Securities Register* but not its format.

For a foreign corporation continued as a company into BC, see the **Continuation** chapter.

The register shown on page 15 is the format adopted by many law firms. Another commonly used format includes individual registers for each shareholder (see page 17). Other formats are acceptable as long as they contain the information prescribed by sections 111 and 436 of the Act. The *Central Securities Register* must contain:

- for pre-existing companies, the name and last known address of each shareholder, and the number and class (or series) of shares held on the date the Act comes into force;
- the name and last known address of each person to whom shares have been issued or transferred since the coming into force of the Act;
- the class, and any series, of shares so issued or transferred;
- the number of those shares held by each person listed; and
- in the case of shares issued or transferred after the coming into force of the Act, the date and particulars of each issue and the date and particulars of each transfer (s. 111).

In addition to its *Central Securities Register*, a company may maintain branch securities registers at any locations inside or outside British Columbia designated by the directors (s. 111(4)). A branch securities register must only contain particulars of shares issued or transferred at that branch (s. 111(6)), however all particulars registered in a branch securities register must also be promptly registered in the *Central Securities Register* (s. 111(7)).

*Continued...*

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**CENTRAL SECURITIES REGISTER**  
**(Per Class of Shares – all Shareholders of that Class)**

**General Notes**

This form of *Central Securities Register* is used when the law firm prefers listing all the shareholders of a particular class of shares on one register.

**Preparation**

If you do not have a database and document assembly program, the most convenient way to create and complete the form is to use the table feature of your word processor. Pre-printed forms are also available for this type of *Central Securities Register*.

It is important to remember to update each *Central Securities Register* every time there is a change.

- ① Insert the full description of the class of shares (e.g. “Class C Non-Voting Preferred shares without par value”). Where there are several classes of shares, you should prepare a different *Central Securities Register* for each class of shares.
- ② Insert the effective date of the issuance of the share certificates (not the date you are preparing the *Central Securities Register*).
- ③ Insert the *Share Certificate* number (see **Share Certificates** – page 24).
- ④ Insert the effective date of the cancellation of the share certificates (the shares were transferred to a third party or surrendered to the company).

Insert the number of shares represented by the *Share Certificate*.

- ⑥ Insert particulars of other consideration.

**Processing**

Once completed and checked, place in the *Records Book* under the tab “Central Securities Register”.

**CENTRAL SECURITIES REGISTER**

| CENTRAL SECURITIES REGISTER                         |                                  |                                      |                  |  |                           |           |                               |                |   |
|---|----------------------------------|--------------------------------------|------------------|--|---------------------------|-----------|-------------------------------|----------------|---|
| Name of Company: {NAME OF COMPANY}                  |                                  |                                      |                  |  |                           |           |                               |                |   |
| Class of Shares: {Description of Class of Shares} ① |                                  |                                      |                  |  |                           |           |                               |                |   |
| Date Share Certificate Issued                       | Date Share Certificate Cancelled | Full Name and Address of Shareholder | Number of Shares | Acquired by Allotment, Conversion, Transfer (or) | If Transferred, from whom | Cert. No. | Consideration Paid to Company |                |   |
|   |                                  |                                      |                  |  |                           |           | Cash or Other                 | Paid Per Share | Other Than Cash                                 |
| {Date} ①  |                                  |                                      |                  |  |                           |           | Cash                          | Cash           | Particulars                                     |
| {Date of Incorporation}                             |                                  | {Name and address of Incorporator}   | ⑤                | Allotment  |                           | 1 ②       | Cash                          | \$1.00 ⑥       |   |
| {Date} ②  | {Date} ③ ④                       | {Name of Shareholder A}              | ⑤                | Allotment  |                           | 2 ②       | Other                         |                | ⑤ - Pursuant to transfer agreement dated {Date} |
| {Date} ①  |                                  | {Name of Shareholder B}              | ⑤                | Transfer   | {Shareholder A}           | 3 ②       |                               |                |   |
| {Date} ①  |                                  | {Name of Shareholder A}              | ⑤                | {Balance remaining after transfer}               |                           | 4 ②       |                               |                |   |
| {Date} ②  |                                  | {Name of Shareholder A}              | ⑤                | {Subdivision of existing shares}                 |                           | 5 ②       |                               |                |   |

① If Shareholder A holds, for example, 100 shares represented by Certificate No. 2 and transfers a portion of his or her (or its) shares, for example 30 shares to shareholder B represented by Certificate No. 3, the transfer will result in Shareholder A still holding a balance of 70 shares (the remainder) after the transfer represented by Certificate No. 4.

② If the designation of a Class of shares is changed, or there is an exchange of shares, show the date of cancellation of the old shares certificates, and start a new *Central Securities Register* for the new shares showing the exchange. On the new *Central Securities Register*, in ① insert the description of the new class of shares. In the column "Acquired by Allotment,..." type the words "Issued upon exchange of {number} Class description of "old" class of shares" for {description of "new" class of shares}.

## CENTRAL SECURITIES REGISTER (Individual per Shareholder)

### General Notes

This form of *Central Securities Register* is used when the law firm prefers to show all the shares of each class of shares owned by an individual shareholder on one register.

### Preparation

If you do not have a database and document assembly program, the most convenient way to create and complete the form is to use the table feature of your word processor.

It is important to remember to update each *Central Securities Register* every time there is a change.

- ① Insert the description of the class of shares. When the shareholder holds several different classes of shares, prepare a different register for each class of shares.
- ② Insert the par value of the shares or if the shares are without par value, insert “without” or “NPV”.
- ③ Insert the effective date of the resolution approving the issuance or cancellation of the *Share Certificate* (not the date that you prepare the *Central Securities Register*).
- ④ Insert the number of the *Share Certificate* issued.  
Insert the number of the *Share Certificate* cancelled.
- ⑥ Describe the reason for the issuance, transfer or disposition of the shares. For example: Allotment, Transfer from {*Name of Shareholder*}, Conversion, Redemption, Stock Dividend on {*Class of Shares*}, etc.
- ⑦ Insert the number of shares represented by the *Share Certificate*.
- ⑧ Insert the number of shares disposed of. The number may be, but is not necessarily the number represented by the *Share Certificate*. For example, if a shareholder held 100 shares, and only transferred 40 to another shareholder, you would insert “40”.
- ⑨ Insert the balance remaining after the transaction in ⑧, i.e. 60 shares.
- ⑩ If the consideration is cash, in the column “Agreed Per Share” and in the column “Cash” insert the price paid per share. If the consideration is other than cash, in the column “Agreed Per Share”, insert the agreed amount per share and in the column “Other Than Cash – Particulars” state the particulars of the consideration, for example “pursuant to a transfer agreement dated {*Date*}”.

### Processing

Once completed and checked, place in the *Records Book* under the tab “Central Securities Register”.

**CENTRAL SECURITIES REGISTER**  
**Individual – per Shareholder**

| CENTRAL SECURITIES REGISTER        |                  |                       |   |                 |                    |                          |                  |                               |                |                             |  |
|------------------------------------|------------------|-----------------------|---|-----------------|--------------------|--------------------------|------------------|-------------------------------|----------------|-----------------------------|--|
| Name of Company: {NAME OF COMPANY} |                  |                       |   |                 |                    |                          |                  |                               |                |                             |  |
| Name of Shareholder                |                  | {NAME OF SHAREHOLDER} |   | Class           |                    | {Description of Class} ① |                  |                               |                |                             |  |
| Address of Shareholder             |                  | {Address}             |   | Par Value       |                    | ②                        |                  |                               |                |                             |  |
| Date                               | Cert. No. Issued | Cert. No. Cancelled   | Particulars of Issue, Transfer or Disposition | Number Acquired | Number Disposed of | Balance                  | Agreed per share | Consideration paid to Company |                |                             |  |
| ③                                  | ④                | ⑤                     | ⑥   | ⑦               | ⑧                  | ⑨                        | ⑩                | Cash                          | Paid Per Share | Other than Cash Particulars |  |
| {date}                             | {1}              | {1}                   | {Allotment}                                   | {100}           | {40}               | {100}                    |                  |                               |                |                             |  |
| {date}                             | {2}              | {1}                   | {Transfer to – Name of Shareholder}           |                 |                    | {60}                     |                  |                               |                |                             |  |
| {date}                             | {4}              |                       | {Transfer from – Name of Shareholder}         | {25}            |                    | {85}                     |                  |                               |                |                             |  |
| {date}                             |                  | {2 and 4}             | {Redemption}                                  |                 | {85}               | {00}                     |                  |                               |                |                             |  |
|                                    |                  |                       |   |                 |                    |                          |                  |                               |                |                             |  |
|                                    |                  |                       |   |                 |                    |                          |                  |                               |                |                             |  |

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## SHARES

A share represents one unit of ownership in a company, however it is possible for a company to issue a fractional share (s. 69).

Individuals or corporations can become “shareholders” of a company by way of:

- the allotment and issuance of shares by the directors of the company (see the **Allotments** chapter); or
- the transfer of shares from an existing shareholder (see the **Transfers and Transmissions** chapter);
- a stock dividend (see the **Dividends** chapter);
- a conversion (when one class of shares is converted into another class see the **Authorized Share Structure** chapter); or
- an amalgamation (see the **Amalgamations** chapter).

The authorized share structure of a company, i.e. the kind, class and number of shares that a company is authorized to issue, is described in the **Incorporation** and **Authorized Share Structure** chapters. The **Special Rights and Restrictions** attached to the various classes of shares and any subsequent alterations to the authorized share structure are both described in the **Authorized Share Structure** chapter.

The Act distinguishes between two kinds of shares: (s. 107):

- “**certificated shares**” are shares represented by a **share certificate** or by a non-transferrable written **acknowledgement** of the shareholder’s right to receive a share certificate.
- “**uncertificated shares**” are shares that are **not** represented by a certificate or acknowledgement, save and except in the case of an **unlimited liability company**.

In the case of the issue or transfer of an **uncertificated** share, the company must send to the shareholder a written notice containing the information required to be stated on a Share Certificate under section 57 which is the information generally contained in a share certificate, in the form of a notice rather than a certificate.

Unless the company's Articles provide otherwise, the directors of a company may, by resolution, provide that:

- the shares of any or all of the classes and series of the company's shares must be **uncertificated** shares, or
- any specified shares must be **uncertificated** shares.

## SHARE CERTIFICATES AND ACKNOWLEDGEMENTS OF ISSUANCE

### General Notes

A *Share Certificate* is evidence of ownership of shares in a company. Unless the shares are uncertificated, every shareholder is entitled, at the option of the shareholder, to:

- a *Share Certificate* or *Share Certificates* representing the shares held by that shareholder; or
- a non-transferrable written **Acknowledgement** of his or her right to receive a *Share Certificate* (s. 107(3)).

The company's *Articles*, along with the Act, govern the issuance of *Share Certificates*.

Section 57 of the Act, which governs the **contents** of *Share Certificates* and *Acknowledgements of Issuance* (but not the form), applies to all certificates issued by a company after the coming into force of the Act. For a list of the information required on the face of the certificate see the “**Preparation**” notes ① to ⑩ opposite the *Share Certificate* (page 24 ).

The directors of the company may adopt a form of *Share Certificate* or alternatively, an *Acknowledgement of Issuance* in the *Resolutions of the First Directors* (see the **Organization** chapter) or in a later *Directors Resolution* if a new form of *Share Certificate* is adopted. In addition, the directors may authorize the use of any form of certificate as approved by any one director executing such *Share Certificate* or *Acknowledgement*.

Generally, pre-printed *Share Certificates* may be purchased from a stationery store and are available in several colours. It is customary, but not necessary, to use a different colour for each different class of shares. It is common practice to use blue certificates for common shares and red, green, orange or brown for other classes of shares.

The face of the certificate is completed when the *Share Certificate* is issued. Depending on the form of the pre-printed *Share Certificate* (if the certificate has the text printed on it, or if it contains only the border)<sup>(1)</sup>, it may be completed by using a typewriter or a word processor or a combination of both. The blue coloured border on the certificate shown on page 25 is pre-printed but all of the text may be generated by a document assembly program or by a word processing template. Using a database document assembly program, such as ALF, is the simplest method of generating *Share Certificates*.

On issuance, *Share Certificates* and *Acknowledgements* are given consecutive numbers. If there is only one class of shares, the *Share Certificates* are numbered 1, 2, 3, etc. When there are several classes of shares, the *Share Certificates* for each class of shares should be identified with a separate series of numbers and a letter designating the class. For example, if there are Class A shares, you could number the certificates A1, A2, A3 or 1A, 2A, 3A. Most law firms have a policy regarding the numbering of *Share Certificates* and *Acknowledgements*. Check with the supervising solicitor or the corporate supervisor and be consistent in your numbering. If you have a corporate database, the database will usually

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<sup>(1)</sup> Stationers often refer to blank *Share Certificates* containing no text as “laser printer” certificates.

identify the next sequential certificate number, but be careful to double check the numbers against the numbers in the *Central Securities Register* to ensure that the numbering is correct and consistent.

When the *Share Certificate* or *Acknowledgement* is surrendered for cancellation, an *Instrument of Transfer* or *Surrender of Share Certificate* is completed and signed by the shareholder. It may be:

- a separate document (see *Instrument of Transfer* in the **Transfers and Transmissions** chapter and *Surrender of Share Certificate* in the **Repurchases and Redemptions** chapter); or
- the *Instrument of Transfer* found on the back of the *Share Certificate* (page 26).

Once a resolution of the directors has been passed authorizing the transfer, repurchase or redemption of the shares and the *Instrument of Transfer* or *Surrender of Share Certificate* has been signed, the *Share Certificate* or *Acknowledgement* is cancelled by either printing “**CANCELLED**” across the face of the certificate or stamping the face with a “**CANCELLED**” stamp. Be very careful that the *Directors Resolution* has been signed before stamping the share certificate “**CANCELLED**”. Do **not** just rely on the *Instrument of Transfer* having been signed, because *Share Certificates* are often signed in blank and held in escrow by the law firm until some future event happens, such as the shareholder ceasing to be employed by the company. In other words, the *Share Certificate* should never be stamped “**CANCELLED**” until you are sure that the cancellation has in fact been authorized by the directors.

#### Notes:

1. For each *Share Certificate* issued on or after October 1, 1973 for partly paid shares issued before October 1, 1973, the amount paid up on each of the shares must be stated on the *Share Certificate* (s. 57(2)). After October 1, 1973 partly paid shares were not permitted.
2. Each *Share Certificate* issued on or after October 1, 1973 for shares to which Special Rights or Restrictions are attached must contain, or have attached to it, the full text of those Special Rights or Restrictions (s. 57(3)). As the Special Rights and Restrictions are often very lengthy, it is impractical to set them out in full on the *Share Certificate* or *Acknowledgement*. Section 57 (4) addresses this and states that a company may keep at its Records Office or Registered Office a copy of the full text of the Special Rights or Restrictions attached to the shares and, in that event, the company must:
  - state on each *Share Certificate* or *Acknowledgement* representing a share to which those Special Rights or Restrictions are attached that:
    - there are Special Rights or Restrictions attached to the share; and
    - a copy of the full text of those Special Rights or Restrictions may be obtained, without charge, from the Records Office or the Registered Office, as the case may be; and
  - provide, without charge, a copy of that full text to any person who requests it.

The text in the box at ⑩ in the *Share Certificate* (pages 24 and 25) complies with section 57(4) of the Act.

3. If the shares are "**uncertificated**" (save and except in the case of an **unlimited liability company**), the company must send to the shareholder a written notice containing the information required to be stated on a share certificate under section 57 in the form of a notice rather than a certificate.

Unless the company's Articles provide otherwise, the directors of a company may, by resolution, provide that:

- the shares of any or all of the classes and series of the company's shares must be **uncertificated** shares, or
- any specified shares must be **uncertificated** shares.

### REPLACING BEARER SHARE CERTIFICATES

Section 58.1 has been added to the *Business Corporations Act* mandating the replacement of "bearer share certificates".

A **bearer share certificate** is one that is owned by whoever holds ("bears") the physical certificate. The issuing entity does not register the name of the owner of the shares nor records transfers of ownership; and the dividends are paid to the bearer of the share certificate when a physical certificate is presented to the company.

Before October 1, 1973, bearer certificates were issued to protect assets or the privacy or anonymity of the owner of the shares or were issued after October 1, 1973 in non-compliance with section 57(1) of the Act that requires that the share certificate shows the name of the person to whom it is issued.

Section 58.1(3) mandates that a company must, on the request of a bearer of a bearer share certificate issued by the company, replace the bearer share certificate with a share certificate that complies with the requirements of section 57 – that is: the new share certificate must show the name of its owner.

The Act further mandates that, before the owner of a bearer share certificate for shares to which special rights are attached applies to the company that issued the certificate to give effect to one or more of those rights, the bearer share certificate must be replaced with a share certificate that complies with the requirements of section 57.

### UNLIMITED LIABILITY COMPANIES

If the company is to be an unlimited liability company, the following statement must be included on every share certificate issued exactly as it is set out in the Act (s. 51.2).

**The shareholders of this company are jointly and severally liable to satisfy the debts and liabilities of this company to the extent provided in section 51.3 of the *Business Corporations Act*.**

## SHARE CERTIFICATES (Face)

### Preparation

Insert:

- ① the name of the company;
- ② the name of the person to whom the *Share Certificate* is issued – the shareholder;
- ③ the number of shares;
- ④ the class and, if applicable, the series of shares represented by the *Share Certificate*;  
if the shares are without par value, show “NPV” or “without” or, if the shares are with par value, show the par value (e.g. \$1.00, 1¢, etc.) and, if the currency is not Canadian dollars, the type of currency (e.g. U.S. \$);
- ⑥ the date of issuance of the *Share Certificate*, usually the effective date of the enabling *Directors Resolution*;
- ⑦ if the shares are transferred from another party, insert the name of the person or corporation the shares are transferred from and the certificate(s) number(s). If the shares are allotted, leave in the word “allotment” and delete any reference to “transfer”;
- ⑧ the share certificate **number**;
- ⑨ the office (president, secretary) of the person who is authorized by the *Directors Resolution* to sign the certificate, or if the *Directors Resolution* specifies “any director”, insert “director”; and:
- ⑩ Delete the box if Special Rights or Restrictions are not attached to the shares (see Note 2 on page 22 ). Check whether there is a Shareholders’ Agreement because sometimes a Shareholders’ Agreement contains wording that must also be included on the face of the *Share Certificate*. This usually follows in a separate paragraph in the box noting the existence of Special Rights or Restrictions. If there are no Special Rights or Restrictions, you can substitute the wording set out in the Shareholders’ Agreement for the wording regarding the Special Rights or Restrictions. An example of the kind of wording to be included if there is a Shareholders’ Agreement is as follows:

*“The Shares represented by this certificate are subject to the provisions of an agreement made the {Date} between the Shareholders of the Company and the Company which agreement contains restrictions on the right of the holder hereof to sell, assign, transfer, dispose of, donate, mortgage, encumber, charge or otherwise deal with the Shares represented hereby and notice of those restrictions is hereby given.”*

### Processing

Once the certificate has been prepared and the details checked by the supervising solicitor, arrange to have it signed at the same time the *Directors Resolution* and any other supporting documents are signed.

The signed certificate should be kept in the *Records Book*, under the tab “Share Certificates”, unless it is delivered to the shareholder, to a financial institution as security for a loan, or is held in escrow.

**Note:** If the *Share Certificate* is delivered to the shareholder, you may tear off the actual certificate from the stub and have the shareholder date and sign the stub in the box entitled “Certificate Received”. However, it is preferable to obtain a receipt. It is also usual to staple a photocopy of the certificate to the stub.

|   |  |   |   |
|---|--|---|---|
| <b>COMPANY: {NAME OF COMPANY} ①</b>   |  |   |   |
| Number of Shares ③<br>Certificate No. ⑧<br>Class: ④<br>Par Value ⑤<br>Date of Issue ⑥ | <b>REGISTERED HOLDER</b><br><br><i>{Name of Shareholder} ②</i> | <b>TRANSFER FROM</b><br>⑦<br>⑦ or ALLOTMENT | <b>CERTIFICATE RECEIVED:</b><br>Date: _____<br><br>_____<br>Signature |

CERTIFICATE NUMBER  
 ⑧

**A BRITISH COLUMBIA "BUSINESS CORPORATIONS ACT" COMPANY**

CLASS  
 ④

PAR VALUE  
 ⑤

DATE OF ISSUE  
 ⑥

**TRANSFER OF THESE SHARES IS RESTRICTED**

**{NAME OF COMPANY} ①**

THIS CERTIFIES THAT: *{Name of Shareholder} ②*

is the registered holder of the number and class of shares of the Company described hereon, such shares being fully paid up and non-assessable and, subject to the Articles of the Company, transferable by completion of a proper instrument of transfer and surrender of this certificate.

⑩

THERE ARE SPECIAL RIGHTS AND RESTRICTIONS ATTACHED TO THESE SHARES, AND A COPY OF THE FULL TEXT THEREOF MAY BE OBTAINED FROM THE REGISTERED OR RECORDS OFFICE OF THE COMPANY WITHOUT CHARGE.

**IN WITNESS WHEREOF**, the Company has caused this Certificate to be signed by its duly authorized officer(s), and, where required, to be sealed with its common seal, on the date of issue.

\_\_\_\_\_  
Title / Director ⑨

NUMBER OF SHARES  
 ③

## SHARE CERTIFICATE (Back – Instrument of Transfer)

### General Notes

The *Instrument of Transfer* on the back of the *Share Certificate* is usually pre-printed but can be reproduced using a template on your word processor.

The *Instrument of Transfer* may be completed when the shares for which the certificate is issued are either:

- transferred to someone else; or
- surrendered to the company for cancellation (such as in the case of a redemption, exchange of shares, or purchase of the shares by the company).

Many firms find it more convenient to prepare a separate document called an *Instrument of Transfer* or *Surrender of Share Certificate* at the time of the transfer (see the **Transfer and Transmissions** chapter and the **Repurchases and Redemptions** chapter). After the *Instrument of Transfer* or *Surrender of Share Certificate* has been signed, it is attached to the cancelled *Share Certificate* eliminating the need for typing or printing the transfer information onto the back of the *Share Certificate*. Check with the corporate supervisor or supervising solicitor of your firm as to the law firm's policy or the solicitor's preference.

### Preparation

- ① Insert the name of the transferee/purchaser of the shares.
- ② When the shares are **transferred** to another party, complete the number and class of shares being transferred (which may not necessarily be the number of shares on the certificate – for example, there may be a transfer of only a portion of the shares on the certificate).

If the shares are **surrendered** to the company as a result of a purchase by the company, a redemption, an exchange of shares, or a gift back, delete all the words from the beginning of the box to the date, and replace with the following:

*“The undersigned, for valuable consideration received, surrenders to  
{NAME OF COMPANY} {number and class of shares} for  
cancellation.”*

- ③ Insert the effective date of the transfer or surrender.
- ④ If the shareholder is a company, instead of “Witness” and “Signature of Shareholder” insert the following attestation clause:

*{NAME OF COMPANY}*

**Per:** ⑤ \_\_\_\_\_  
Authorized signatory

### Processing

The transferor should sign in the space indicated ⑤ and if the transferor is an individual, his or her signature should be witnessed.

The cancelled certificate should be kept in the *Records Book*, under the tab “Share Certificates”.

**INSTRUMENT OF TRANSFER  
(Back of Share Certificate)**

The undersigned, for valuable consideration received, hereby transfers to

①

\_\_\_\_\_  
(Transferee)

②

\_\_\_\_\_  
(number and class of shares)

share(s) in the authorized share structure of the Company to hold unto the transferee, *{his/her/its}* heirs, executors, legal representatives, administrators and assigns, subject to the Articles of the Company.

DATE: ③

④ WITNESS:

\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)

\_\_\_\_\_  
**SIGNATURE OF SHAREHOLDER**

## ACKNOWLEDGEMENT OF ISSUANCE

### General Notes

This document is used as an alternate to a *Share Certificate*. It confirms the issuance of shares and the shareholders' right to receive a certificate if they so choose.

The advantage of issuing an Acknowledgement is that it may be signed electronically or remotely and returned via email or through electronic signature software. In that way, the record can be retained solely as an electronic document. As most shareholders never actually require their share certificates, *Acknowledgements* allow record keepers to retain corporate records in electronic format.

The Acknowledgement is not used for uncertificated shares. Uncertificated shares are determined by the directors for a whole class or part of a class and the shareholders have no right to receive a share certificate.<sup>(1)</sup>

### Preparation

Insert:

- ① the certificate **number**;
- ② the name of the person to whom the *Acknowledgement of Issuance* is issued – the shareholder;
- ③ the number of shares on the *Acknowledgement of Issuance*;
- ④ the class and, if applicable, the series of shares represented by the *Acknowledgement of Issuance*;  
if the shares are with par value, show the par value (e.g. “with a par value of \$1.00 each”) and, if the currency is not Canadian dollars, the type of currency (e.g. U.S. \$), if the shares are without par value insert nothing;
- ⑥ the date of issuance of the shares, usually the effective date of the enabling *Directors Resolution*;
- ⑦ Check the Articles and insert this paragraph only if the company has transfer restrictions attached to its shares. Note that most forms of Articles do not contain transfer restrictions.
- ⑧ Insert this paragraph if Special Rights or Restrictions are attached to the shares (see Note 2 on page 22 and explanation ⑩ on page 24 ). Also check whether there is a Shareholders' Agreement because sometimes a Shareholders' Agreement contains wording that must also be included on the face of the *Share Certificate* (in this case, the *Acknowledgement*). This paragraph usually follows in a separate paragraph after noting the existence of Special Rights or Restrictions. If there are no Special Rights or Restrictions, the wording set out in the Shareholders' Agreement can be substituted for the wording regarding the Special Rights or Restrictions.

### Processing

Once the *Acknowledgement of Issuance* has been prepared and the details checked by the supervising solicitor, arrange to have it signed at the same time as the *Directors Resolution* and any other supporting documents.

A copy of the signed *Acknowledgement* should be kept in the *Records Book*, under the tab “Share Certificates”, and the original should be delivered to the shareholder.

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<sup>(1)</sup> The use of uncertificated shares and a precedent for the necessary resolution to authorize uncertificated shares will be included in a future update.

No. ⑦

*{NAME OF THE COMPANY}*  
(the “Company”)

**NON-TRANSFERRABLE WRITTEN ACKNOWLEDGEMENT  
OF ISSUANCE OF SHARES**

**TO:** ② (the “Shareholder”)

**WHEREAS:**

The Shareholder became the registered owner of ③{number} {Class}④ shares {with/without par value}⑤ (the “Shares”) of the Company effective ⑥.

It is appropriate for the Company to issue a non-transferrable written acknowledgement of the Shares in accordance with subsection 107(3)(b) of the *Business Corporations Act* (British Columbia) (the “Act”) instead of delivering a share certificate to the Shareholder.

**NOW THEREFORE:**

The Company acknowledges the right of the Shareholder to request a share certificate representing the Shares pursuant to subsection 107(3)(a) of the Act.

**LEGENDS:**

⑦Transfer Restrictions

**TRANSFER OF THESE SHARES IS RESTRICTED.**

⑧Special Rights and Restrictions

**THERE ARE SPECIAL RIGHTS OR RESTRICTIONS ATTACHED TO THESE SHARES AND A COPY OF THE FULL TEXT THEREOF IS OBTAINABLE FROM THE RECORDS OFFICE OF THE COMPANY ON DEMAND AND WITHOUT NOTICE OR CHARGE**

Dated ⑥.

*{NAME OF THE COMPANY}* ①

By: \_\_\_\_\_

Authorized Signatory

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**AFFIDAVIT OF APPLICANT**  
**(To Obtain List of all Shareholders)**

**General Notes**

Section 49 provides that any person may apply to a company, or to the person who has custody or control of its *Central Securities Register*, for a list setting out the names and addresses of the shareholders of the company along with the number of shares held by each shareholder. This list differs from the *Central Securities Register* inasmuch as it is simply a list of current shareholders and their addresses and does not show the history of the shareholding (i.e. the date and details of allotments, transfers, repurchases, redemptions or the consideration for which the shares were acquired). This section is rarely used for **private** companies since the *Central Securities Register* is available to the public, but it may be useful for **public** companies in which case, the request should be delivered to the transfer agent.

**Preparation**

- ① State the name and mailing address of the applicant, and, if different, the delivery address. If the applicant is a corporation, show its registered office or equivalent as the delivery address.
- ② This is the wording prescribed by section 49(3) of the Act. The wording of this paragraph may be modified as instructed by the supervising solicitor.
- ③ If this is not an unlimited liability company, delete this paragraph.

**Processing**

The affidavit must be properly dated and sworn before a Commissioner for taking Affidavits in British Columbia or a Notary Public.

When the Affidavit is sworn, ensure that name of the Commissioner (and contact information) is legibly printed in the jurat. <sup>(1)</sup>

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<sup>(1)</sup> The jurat is the certification on the affidavit declaring when, where, and before whom it was sworn

**RE: {NAME OF COMPANY}**  
**(the "Company")**

**AFFIDAVIT**

I, {NAME of APPLICANT}①, of {address}①, MAKE OATH AND SAY THAT:

1. I am the applicant seeking to obtain a list of all shareholders of the Company in accordance with Section 49(3) of the *Business Corporations Act*.
2. Any information and extracts obtained from, and any copies of, the list of all shareholders of the Company will not be used except in connection with an effort to:
  - ② (a) influence the voting of shareholders of the company at any meeting of shareholders;
  - (b) acquire or sell securities of the company;
  - (c) effect an amalgamation or a similar process involving the company or a reorganization of the company; or
  - (d) call a meeting under sections 167(8) or 3(4) of the *Business Corporations Act*.
  - ③ (e) identify the shareholders of the unlimited liability company.

**SWORN BEFORE ME** at {City}, )  
 Province of British Columbia, this \_\_\_\_ )  
 day of \_\_\_\_\_, 200\_\_\_\_ )  
 )  
 )  
 \_\_\_\_\_ )  
 A Commissioner for taking Affidavits )  
 in British Columbia )

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 {NAME OF APPLICANT}①

## **POLICIES FOR NOTING DATE AND TIME ON CORPORATE RECORDS RECEIVED FOR DEPOSIT AT A COMPANY'S RECORDS OFFICE**

Section 44(3) lists all records received for deposit that the company is required to keep at its records office under section 42 and that are required to be date and time stamped by the person who maintains the records office .

The Act previously stated that **all** records required to be kept under section 42 be date and time stamped. However, the amendment to Section 44(3) has reduced the number of such documents – see page 33 for a list and description of documents that are required to be time and date stamped.

“**Received for deposit**” is not a defined term under the Act but may be interpreted to mean records mailed or delivered to a records office *with the intention that they are to be processed and filed in the company's Records Book*. If signed records are delivered in advance of a closing, such as resignations of officers or directors, or are to be held in escrow, the date and time of deposit should **not** be noted on the records until they are deemed received for deposit.

If the law firm does not act as records office, any records received by the law firm should be forwarded promptly to the appropriate address of the records office of the company for filing in the company's *Records Book*.

### **Time and Date Stamping of Corporate Records**

Each firm must decide its own policy for noting the date and time on corporate records and be consistent about following such policy for those documents which require date and time stamping. The guidelines set out below are an example of a set of policies that may be followed when noting the “date and time received for deposit” on corporate records, but these guidelines may vary depending on the law firm's policies and the size of the law firm:

- if a record is received by mail, courier or left at the law firm's reception, the envelope should be date and time stamped by reception staff. The lawyer or paralegal that then receives the record must confirm that the firm acts as records office, and note the date and time of deposit on each corporate record. The envelope should be saved until the date and time of deposit has been noted on each record. Most firms have purchased a stamp for purposes of stamping the date and time on records. If the law firm does not have a date and time stamp, a date stamp can be used and the time hand-written just below the date;
- if a record is delivered personally to a lawyer or paralegal, the lawyer or paralegal that receives the record must first confirm that the firm acts as records office for the company, and then note the date and time of deposit on each corporate record;

Most law firms date and time stamp the record on the bottom right hand corner of the first page of the record. Some firms stamp the back of the record. This latter procedure may not be a good idea if your photocopier does not do two-sided copying since both sides of the document would have to be copied in order to show the date and time it was received at the Records Office.

Corporate records required to be date and time stamped and received by corporate service departments that do not already bear a date and time of deposit, or instructions regarding the date and time of deposit, should be handled as follows:

- if the envelope is attached showing both the date and time received by the law firm, the date and time of deposit should be noted according to the date and time shown on the envelope; or
- if the envelope is not attached, or if the envelope was delivered personally and does not show a date and time stamp, the date and time of deposit should be noted according to the date and time the records are received in the corporate records department.

### **List of Documents to be time and date stamped**

**Only** the following documents require time and date stamping at the time that they are deposited at the records office for filing in the company's Records Book:

- ***Resolutions Altering or Replacing Articles*** – a copy of every resolution or other record altering or replacing the articles must be attached to the Articles;
- All entered ***Court Orders*** made in respect of the company;
- ***Affidavits*** deposited at the company's Records Office
- ***Resignations of Directors and Officers*** (section 128)
- Unless contained in the minutes of the applicable meeting or in a consent resolution
  - the complete text of any resolution passed at a meeting of shareholders, and
  - a copy of each written record referred to in section 148 (3) or (4) or 153 that records a disclosure made to the shareholders under Division 3 of Part 5 by a current director or a current senior officer; and
- Any unanimous resolution passed by the shareholders validating the creation, allotment or issue of shares, or confirming the terms of the allotment or issue of shares;
- ***Disclosure Statements.***

### **Effective Date of Records**

Generally, the date and time records are received by the law firm acting as records office for a company has no bearing on the effective date of a resolution except as follows:

- an alteration to the ***Articles*** that does **not** require the filing of a ***Notice of Alteration*** (Form 11) takes effect (s.259(6):
  - on the date and time that the Resolution altering the ***Articles*** is received for deposit at the company's records office, or
  - if a later effective date and time is specified, then on that later date and time, and if no time is specified, then at 12:01 a.m. on the later date;
- a ***Transition Application*** must not be submitted to the Registrar for filing until, among other things, if there are mandatory or optional alterations to the ***Articles***, the

Resolution altering the *Articles* is received for deposit at the company's records office (s.437(1)(b) and (c))

- **Resignations** of directors are effective (s.128(2)):
  - on the date and time that the written **Resignation** is provided to the company or to a solicitor for the company; or
  - if a later effective date and time is specified, then on that later date and time, and if no time is specified, then at 12:01 a.m. on the later date, or
  - if a later occurring event is specified, then on the occurrence of that event;
  - note that **Resignations** are required to be time and date stamped when they are received at the Records Office.

### LOST RECORDS

It is quite common to receive a Records Book from a client or other law firm, from which documents are either missing or incorrect. See the *Miscellaneous chapter* for the procedures for correcting errors in the company's records. In the case of missing documents, it is sometimes necessary to reconstruct a Records Book, or to document missing records by passing rectification resolutions<sup>(1)</sup>. If share certificates are missing, a **Statutory Declaration** will be required.

Some records can only be correctly replaced by applying for a court order. Section 45(1) of the Act allows that upon application by an interested party "*a record that was or that should have been deposited in the records office of a company has been destroyed, is lost, was never created or is otherwise not accessible*" may be corrected by the Court making a declaration as to what should have been in the record.

A court order may be the only safe way of correcting errors such as the shareholders' names being used as the designation of certain classes of shares, for example, "the Jim Beam shares". The Registrar will only allow the filing of a Form 47 if it can be proved that the incorporator in fact signed a Form 1, Incorporation Agreement and Articles with the correct information, and that the error occurred only in the online filing. The only choice in this case would be to file an **Alteration Notice – Form 11** changing the authorized share structure, which, of course, would not be back-dated to the date of incorporation. Only a court order could ensure that the change existed with full legal effect from the date and time that the company was recognized.

Be very careful about preparing documents and resolutions which are back-dated. In many cases, such as the previous example, preparing substitute documents with the correct information may be fraudulent.

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<sup>(1)</sup> Rectification resolutions will be provided in a future update to this Chapter.

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## **TRANSPARENCY REGISTER**

### **EXPLANATION**

Effective October 1, 2020, every private British Columbia company is required to establish and maintain a *Transparency Register* of “**significant individuals**” who:

1. directly or indirectly own or control 25% or more shares of a company; or
2. have the right to elect or appoint a majority of the directors of the company.

The law firm who acts as agent for a company’s registered and records offices must advise the company of this requirement as the *Transparency Register* must be maintained at the records office or at such other location as determined by the directors of the company.

We have set out in the *Memorandum* (page 40) the detailed requirements with respect to the *Transparency Register*. Users should familiarize themselves with the contents before proceeding with the preparation of the *Transparency Register*.

### **Keeping the Transparency Register**

The law firm must decide where and how the *Transparency Register* should be kept. Section 119.51 requires that a private company must keep its *Transparency Register*:

- at its records office; or
- at a location other than its records office so long as the register is available for inspection and copying (see [Access and Inspection of Transparency Register](#) – page 45)

and the records may be:

- in an electronic form;
- on microfilm;
- in a bound or looseleaf form,

As the *Transparency Register* is not a public document, the law firm must ensure that it is only accessible to and/or inspected by individuals allowed to do so (see page 45 of the *Memorandum*) and that it is not inadvertently delivered to a party not authorized to inspect it when, for example, the Records Book is delivered to, or examined by, another party not authorized to inspect the *Transparency Register*.

In 2026 portions of the *Transparency Register* will become public as the Registrar of Companies is creating an online database for the retention of Transparency Register information much like Corporations Canada has created for federal corporations and is in place in British Columbia for landowners.

Usually, a company’s records are kept in a looseleaf or in electronic form (for example a virtual records book) and the records are filed under separate tabs (see page 6). The following are some suggestions to ensure that the *Transparency Register* does not fall into wrong hands:

- if the law firm decides to keep a printed copy of the Transparency Register, create a new tab entitled “Transparency Register” and print the text in the box below right on the tab; or.
- put the printed *Transparency Register* in an envelope marked with the wording in the box below, and punch the envelope in front of the Records Book or under the **Transparency Register** tab. A coloured envelope would help minimize any accidental removal or inspection by wrong parties:

The Transparency Register may only be inspected by:

- a director of the Company;
- an inspecting official authorized to do so for tax purposes (section 119,7 of the *Business Corporations Act* – the “Act”), for law enforcement purposes (section 119.71 of the Act), for regulatory purposes (section 119.8 of the Act).

The inspecting official must present identification before having access to the Transparency Register.

- keep the *Transparency Register* in electronic format only and have your IT department set up a special secure directory on your law firm’s system where the *Transparency Register* and the *Questionnaires* are kept and make the directory accessible only to authorized people;
- have one file or binder with the *Transparency Register* and all *Questionnaires*.

## PROCEDURE CHECKLIST

1. If an existing company has not yet prepared their transparency register when your office is retained as agent for a company's registered and records offices, prepare and mail ***Letter No. 1 to Company Seeking Instructions re: Transparency Register*** (page 48)
2. Attach ***Memorandum*** (page 40) to the letter and mail them to company
3. Diarize the deadline date in the letter for the response by the company
4. When you receive the response, depending on the instructions from the company, proceed with the following options:
  - Option 1:** the company wishes the law firm to prepare and maintain the ***Transparency Register*** on its behalf (which is preferable); or
  - Option 2:** the company wishes to prepare and maintain its own ***Transparency Register***

### Option 1

#### The company wishes the law firm to prepare and maintain the *Transparency Register*

5. Review the ***Central Securities Register*** and ***Register of Directors*** to determine:
  - (a) who the significant individuals of the company are (see the ***Memorandum*** for the explanation of significant individuals and significant number of shares)
  - (b) how the individuals became significant individuals and
  - (c) the date the individuals became significant individuals
6. Prepare a separate ***Questionnaire*** for each individual who is a significant individual
7. Draft the ***Transparency Register*** from information you have on file
8. Prepare and mail ***Letter No. 2 to Company with Questionnaire and Draft Transparency Register*** (page 56)
9. Diarize the deadline date in the letter

#### ***When the Questionnaire(s) is/are returned:***

10. Complete the missing information in the draft ***Transparency Register***

Note: Depending on your law firm's policy, send a copy of the updated ***Transparency Register*** to the Company to the attention of a director (letter or email)

11. File the completed *Transparency Register* under the *Transparency Register* tab or in a pre-approved location so that the *Transparency Register* is not accidentally released to, or inspected by, persons who are not authorized to inspect it (see page 36)
12. Prepare *Notice to Individual who Becomes a Significant Individual* (page 60)
13. Prepare *Letter No. 3 to Company with Notice to Individual who Becomes or Ceases to be a Significant Individual* (page 64)

*When the signed Notice(s) to Individual who Becomes a Significant Individual is returned:*

14. prepare *Letter No. 4 with Notice to Individual who Becomes or Ceases to be a Significant Individual* (page 66)
15. Keep copies of the *Notice(s)* and the letter in the file.

Note: In order to save steps, you may consider sending unsigned Notices to the company requesting that they be forwarded to the individuals who become significant individuals thus combining steps 13 and 14

## **Option 2**

### **The company wishes to prepare and maintain its own *Transparency Register***

16. Prepare *Directors Resolution Re: Transparency Register* (page 70)
17. Prepare *Letter No. 5 to Company That Will Prepare and Maintain its own Transparency Register* (page 68) and attach to it:
  - (a) Form of *Transparency Register* (blank)
  - (b) *Directors Resolution re: Transparency Register*
  - (c) *Notice of Location* (page 72)

*When the signed Directors Resolution Re: Transparency Register and the completed Transparency Register are returned:*

18. File the signed Resolution in the company Records Book under the tab: **Directors' Minutes/Resolutions**
19. File the completed *Notice of Location* under the *Transparency Register* tab or in a pre-approved location so that the *Transparency Register* is not accidentally released to or inspected by persons who are not authorized to inspect it (see page 36).

**MEMORANDUM TO COMPANY****Re: Transparency Register**

This memorandum should be sent or delivered to the company and if requested, to the individuals that become significant individuals:

1. for every private British Columbia company (see below for exclusions);
2. when a company is incorporated;
3. when an individual becomes a significant individual as the result of a transaction (for example, allotment, transfer, etc.);
4. when a new company's records are brought to your law firm and there is no ***Transparency Register***.

**Suggestions:**

- The Memorandum may be printed double sided as a separate document and forwarded to the company or the individual who has become a significant individual;
- or*
- The text of the Memorandum may be included in ***Letter No. 1*** – with obvious changes.

**Exclusions**

Only **private** companies incorporated, amalgamated or continued under the Act are required to maintain a ***Transparency Register***. Part 18 of the *Business Corporations Regulations*, section 47 [Exclusions – Private Companies] lists the following class of companies that are “private companies” but are excluded – and **no *Transparency Register*** is required for them:

- companies that are wholly owned subsidiaries of a public company;
- insurance companies, trust companies and government corporations as defined in the *Financial Institutions Act*;
- companies that are wholly owned subsidiaries of special act corporation<sup>(1)</sup>;
- companies incorporated or wholly owned by a municipality or regional district;
- companies that operate an independent school or converted under the *School Act*; and
- companies that are wholly owned by one or more Indigenous Nations.

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<sup>(1)</sup> A special act corporation is one that is incorporated under its own federal or provincial statute rather than under a corporate law of general application, for example, under the *Business Corporations Act*. For a more complete explanation, see the **Overview** chapter.

## **MEMORANDUM RE: TRANSPARENCY REGISTER**

Effective October 1, 2020, private companies incorporated, amalgamated or continued under the British Columbia *Business Corporations Act* (the “Act”) are required to maintain a Transparency Register which contains certain information regarding “significant individuals” with direct or indirect control of a company. The purpose of this memo is to set out basic information in order to assist you with determining if your company has any significant individuals and who those significant individuals are.

### **Transparency Register**

1. A private company must take reasonable steps to maintain a Transparency Register that contains the following information on each significant individual (see definition below):
  - (a) the individual's full name, date of birth and last known address;
  - (b) whether or not the individual is a Canadian citizen or permanent resident of Canada;
  - (c) if the individual is **not** a Canadian citizen or permanent resident of Canada, every country or state of which the individual is a citizen;
  - (d) whether or not the individual is resident in Canada for the purposes of the *Income Tax Act* (Canada);
  - (e) the date on which the individual became or ceased to be a significant individual in respect of the company;
  - (f) a description of how the individual is a significant individual; and
  - (g) prescribed information, if any.
2. If a private company determines that there are no individuals who are significant individuals in respect of the company, a Transparency Register must still be prepared and it must contain a statement setting this out.
3. If a private company is unable to obtain or confirm some or all of the information referred to above, the Transparency Register must contain the following:
  - (a) the information obtained or confirmed by the company; and
  - (b) statement that the company was not able to obtain or confirm the information and a summary of the steps taken to obtain or confirm the information.

### **Determining Significant Individuals**

5. A Transparency Register must contain a list of all **significant individuals**. An individual is a significant individual in respect of a private company if any of the following apply:
  - (a) the individual has any of the following interests or rights, or any combination of them, in a **significant number of shares** of the private company:
    - (i) an interest as a registered owner of at least one of the company's shares;
    - (ii) an interest as a beneficial owner of at least one of the company's shares, other than an interest that is contingent on the death of another individual;  
or
    - (iii) indirect control, within the meaning of the regulations, of at least one of the company's shares;

- (b) the individual has any of the following rights or abilities, that, if exercised, would result in the election, appointment or removal of the majority of the directors of the private company:
- (i) the right to elect, appoint or remove one or more of the company's directors;
  - (ii) indirect control, within the meaning of the regulations, of the right to elect, appoint or remove one or more of the company's directors; or
  - (iii) the ability to exercise direct and significant influence over an individual who has the right or indirect control described in subparagraph (i) or (ii).
6. A **significant number of shares** means either of the following:
- (a) 25% or more of the issued shares of the company;
  - (b) issued shares of the company that carry 25% or more of the rights to vote at general meetings.
7. If an interest or right outlined above is held jointly by two or more individuals, each individual is a significant individual in respect of the company.
8. When two or more individuals have interests, rights or abilities that, when combined, meet a criterion described above, each individual is a significant individual in respect of the company if:
- (a) the interests, rights or abilities are subject to an agreement or arrangement under which the interests, rights or abilities are to be exercised jointly or in concert by those individuals; or
  - (b) each individual is an associate, within the meaning of paragraph (c) or (d) of the definition of "associate" in section 192(1) of the Act, of the other individuals being:
    - (i) a spouse, son or daughter of the person; or
    - (ii) a relative of the person or of the person's spouse, other than a relative referred to in paragraph (i), who has the same home as the person.

### **Control**

9. An individual has **indirect control** of one or more of the shares of a company if the individual, who is not an intermediary:
- (a) controls an intermediary that is the registered owner of the shares, or
  - (b) controls a chain of intermediaries, the last of which is the registered owner of the shares.
10. In addition to any individual who has indirect control as described above, an individual has indirect control of one or more of the shares of a company if the individual is a trustee or personal or other legal representative in a chain of intermediaries, the last of which is the registered owner of the shares.
11. An individual has indirect control of the right to elect, appoint or remove one or more of the directors of a company if the individual, who is not an intermediary:
- (a) controls an intermediary that has that right; or
  - (b) controls a chain of intermediaries, the last of which has that right.

12. In addition to any individual who has indirect control as described above, an individual has indirect control of the right to elect, appoint or remove one or more of the directors of a private company if the individual is a trustee or personal or other legal representative in a chain of intermediaries, the last of which has that right.
13. A **chain of intermediaries**, in relation to a private company, is a group of two or more intermediaries having a hierarchal relationship to each other in which:
  - (a) the last intermediary in the chain;
    - (i) is the registered owner of one or more of the shares of the private company;  
or
    - (ii) has the right to elect, appoint or remove one or more of the directors of the private company,
  - (b) each intermediary in the chain controls the intermediary below it; and
  - (c) the first intermediary in the chain is:
    - (i) controlled by an individual who is not an intermediary;
    - (ii) a trustee if the trustee is not controlled by a person; or
    - (iii) a personal or other legal representative if the representative is not controlled by a person.
14. Control of an intermediary that is a corporation, partnership or agent, other than a corporation, partnership or agent that is a trustee or personal or other legal representative, is determined in accordance with the following rules:
  - (a) a person controls a corporation if the person has the right to elect or appoint a majority of the directors of the corporation;
  - (b) a person controls a partnership if the person is a partner in the partnership;
  - (c) a person controls an agent if the person is the principal of the agent.
15. Control of an intermediary that is a trustee is determined in accordance with the following rules:
  - (a) a person controls a trustee that is the registered owner of one or more of the shares of a private company if the person has, under the terms of the trust, the power to direct how the trustee is to exercise any of the rights that are attached to the shares;
  - (b) a person controls a trustee that has the right to elect, appoint or remove one or more of the directors of a private company if the person has, under the terms of the trust, the power to direct how the trustee is to exercise that right;
  - (c) a person controls a trustee that controls an intermediary if the person has, under the terms of the trust, the power to direct how the trustee is to exercise control over the intermediary;
  - (d) the rules in subsection (a) apply in determining who controls a corporation, partnership or agent that controls a trustee.
16. Control of an intermediary that is a personal or other legal representative is determined in accordance with the following rules:
  - (a) a person controls a representative that is the registered owner of one or more of the shares of a private company if the person has the legal authority to direct how the representative is to exercise any of the rights that are attached to the shares;

- (b) a person controls a representative that has the right to elect, appoint or remove one or more of the directors of a private company if the person has the legal authority to direct how the representative is to exercise that right;
  - (c) a person controls a representative that controls an intermediary if the person has the legal authority to direct how the representative is to exercise control over the intermediary;
  - (d) the rules in subsection (a) apply in determining who controls a corporation, partnership or agent that controls a representative.
17. An individual controls a chain of intermediaries if the individual controls the first intermediary in the chain.

### **Shareholders Duty to Provide Information**

18. A private company may at any time send to a shareholder of the company a request to provide the company with information for the purposes of maintaining its Transparency Register.
19. A shareholder, after receiving a request to provide updated information, must, after taking reasonable steps to compile the requested information, promptly send to the private company the information that the shareholder was able to compile.

### **Annual Review**

20. A private company must annually, within 60 days of the anniversary of recognition, take reasonable steps to confirm that the information contained in its Transparency Register is accurate, complete and up to date.
21. If a company is unable to obtain or confirm some or all of the information contained in the Transparency Register as part of the company's annual review, the company must record in the Transparency Register within two months of the anniversary of the company's recognition date the following:
- (a) the information obtained or confirmed by the company; and
  - (b) statement that the company was not able to obtain or confirm the information and a summary of the steps taken to obtain or confirm the information.

### **Update of Information**

22. If a company becomes aware of any changes to information contained in their Transparency Register, the company must record that information in its Transparency Register within 30 days after becoming aware of the information.

### **Notifying Significant Individuals**

23. A company must, within 10 days after indicating in its Transparency Register that an individual is a significant individual in respect of the company or that an individual has ceased to be a significant individual in respect of the company, send a notice to the individual that sets out this fact.

### **Location of Transparency Register**

24. A company must maintain its Transparency Register at its registered office unless the directors of the company have authorized another location by resolution, as long as the Transparency Register is available for inspection and copying at its records office by means of a computer terminal or other electronic technology.

### **Maintenance of the Transparency Register**

25. A person who maintains the records office for a private company must take reasonable steps to:
- (a) keep the company's Transparency Register in a complete state;
  - (b) avoid loss, mutilation or destruction of the Transparency Register;
  - (c) avoid falsification of entries in the Transparency Register; and
  - (d) provide inspecting officials and the company's directors with simple, reliable and prompt access to the Transparency Register.
26. A person who maintains the records office for a private company must ensure that the company's Transparency Register is maintained:
- (a) in an electronic form;
  - (b) on microfilm;
  - (c) in a bound or looseleaf form or
  - (d) in another prescribed form.

### **Access and Inspection of Transparency Register**

27. A person who maintains the records office for a private company must not allow anyone to inspect the company's Transparency Register except by:
- (a) a director of the company; or
  - (b) an inspecting official authorized to inspect the company's Transparency Register for tax purposes (section 119.7 of the Act), for law enforcement purposes (section 119.71 of the Act), for regulatory purposes (section 119.8 of the Act).
28. An "inspecting official" means an individual:
- (a) an official or employee of a taxing authority administering or enforcing a law of British Columbia or Canada that provides for the imposition or collection of a tax, royalty or duty;
  - (b) an officer within the meaning of the *Police Act* or a member of the Royal Canadian Mounted Police:
    - (i) conducting an investigation in Canada;
    - (ii) policing and criminal intelligence operations in Canada;
    - (iii) assisting another law enforcement agency in Canada; and
    - (iv) providing information contained in the Transparency Register to a law enforcement agency in a jurisdiction outside Canada to assist the agency in a law enforcement proceeding if this assistance is authorized under an

arrangement, written agreement, treaty or law of British Columbia or Canada

29. A director of a company or an inspecting official may inspect the company's Transparency Register during statutory business hours only. However, a company may pass an ordinary resolution reducing the hours during which the Transparency Register may be inspected to at least two consecutive hours per day within statutory business hours. In addition, the inspecting official must present identification when requested.
30. If an inspecting official or a director requests a copy of a company's Transparency Register and pays, to the person who maintains the records office for the company, the copying fee, if any, set by that person, the person must provide the copy to the inspecting official or director promptly after receipt of the payment.

### **Incorrect Entries and False Information**

31. A company commits an offence if its Transparency Register:
  - (a) identifies an individual as a significant individual who is not a significant individual in respect of the company;
  - (b) excludes an individual who is a significant individual in respect of the company;
  - (c) contains information about a significant individual that is false or misleading in respect of any material fact; or
  - (d) omits information about a significant individual, the omission of which makes the information false or misleading.
32. If a private company commits an offence, any director or officer of the company who authorizes, permits or acquiesces in the commission of the offence also commits an offence, whether or not the company is prosecuted or convicted.
33. No person is guilty of an offence if the person:
  - (a) did not know that the identification or exclusion of the individual was incorrect or that the information about a significant individual was false or misleading, and
  - (b) with the exercise of reasonable diligence, could not have known that the identification or exclusion of the individual was incorrect or that the information was false or misleading.
34. A shareholder of a private company who sends information to the company for the purposes of the company's Transparency Register commits an offence if the information:
  - (a) is false or misleading in respect of any material fact; or
  - (b) omits any material fact, the omission of which makes the information false or misleading.
35. A person who commits an offence is liable:
  - in the case of a person other than an individual, in a fine of not more than \$100,000.00; and
  - in the case of an individual, in a fine of not more than \$50,000.00.

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**LETTER NO. 1 TO COMPANY**  
**Re: Transparency Register – Seeking Instructions**

**General Notes**

This letter is prepared at any time your law firm receives an incomplete Records Book that does not have a *Transparency Register*.

*Continued...*

File No. \_\_\_\_\_

*{date}*

*{name and address of the company}*

Dear \_\_\_\_\_:

**Re:   *{name of the Company}* (the “Company”)  
      **Transparency Register****

We write to advise you of the recent amendments to the British Columbia *Business Corporations Act* (the “**Act**”) that have resulted in significant changes to the records keeping requirements for private companies governed by the Act.

The amendments require that, effective October 1, 2020 every private British Columbia company will have to take reasonable steps to establish and maintain a **Transparency Register** of “**significant individuals**” who:

1. directly or indirectly own or control 25% or more shares of a company; or
2. have the right to elect or appoint a majority of the directors of the company.

As our firm is the registered and records office for the Company, we are writing to you requesting that you provide us with instructions to ensure that the Company complies with the new requirements in a timely manner.

Please note that failure to comply with the above requirement, may result:

- in the case of a person other than an individual, in a fine of not more than \$100,000.00; and
- in the case of an individual, in a fine of not more than \$50,000.00

We enclose a memorandum which sets out some basic information about the amendments to the Act and the regulations thereto. The contents are intended for general information purposes only and are, under no circumstances, to be relied on for legal decision-making. We also refer you to the government site that sets out the requirements in greater length, and also provides some examples:

<https://www2.gov.bc.ca/gov/content/employment-business/business/bc-companies/bearer-share-certificate-transparency-register/significant-individual>

We strongly advise you to consult us for legal advice concerning the specifics of your particular situation.

Please provide us your instructions regarding the following options:

- Option No. 1: The law firm will prepare and maintain the Transparency Register from information provided by you.
- Option No. 2: You will assume the responsibility of preparing, updating and maintaining the Transparency Register, and generally, complying with Part 4.1 – Transparency Register of the Act.

*Continued...*

**LETTER NO. 1 TO COMPANY**  
**Re: Transparency Register – Seeking Instructions**

*(Continued)*

**Processing**

Attach to the letter the *Memorandum* (see pages 40)

Make one copy of the letter for the file.

Diarize the file for two to three weeks.

*Letter No. 1 to Company**Re: Transparency Register – Seeking Instructions*Page 2

If you choose option No. 1, we shall send you a questionnaire and a draft Transparency Register which we would ask you to complete and return to us for updating and filing in the Company's Records Book. The fee for the initial set-up will be \$\_\_\_\_. This amount may increase, in our sole discretion, if significantly more time becomes required to obtain information from the shareholders of the Company. Thereafter, we shall update the Transparency Register on an annual basis and when we become aware of any new information or changes. The annual fee and any changes will be billed at our usual hourly rate. In this regard, we ask that you keep us informed of any changes.

If you choose option No. 2, we shall prepare and forward to you a consent Directors' Resolution with respect to the location of the Transparency Register and it will be your responsibility to:

- prepare and maintain the Transparency Register at a location to be determined by the directors of the Company;
- give notice to individuals that become or cease to be significant individuals; and
- generally, to comply with **Part 4.1 – Transparency Register** of the Act.

Each year, we shall add a fee of \$\_\_\_\_ to the annual maintenance fee for preparing the above resolution. Please note that the Company must ensure that the Register is available for inspection for a period of at least two consecutive hours per day within statutory business hours.

We look forward to hearing from you as to how you wish to proceed no later than \_\_\_\_\_, 2020.

Yours truly,

## **QUESTIONNAIRE -- TRANSPARENCY REGISTER**

### **General Notes**

As each individual is responsible for providing correct information, this Questionnaire should be prepared and signed by the individual who is becoming a significant individual before his or her name is entered in the *Transparency Register*.

Note: This *Questionnaire* must also be completed when preparing documents for transactions which result in an individual becoming a significant individual, for example:

- allotments;
- transfers;
- repurchases and redemptions.

### **Preparation**

Complete as much information as you currently have from the *Central Securities Register* and *Register of Directors*.

- ① The name and the address of the significant individual should match the information in the *Central Securities Register*.

If you are not sure of the information (for example, you only have the name “James P. Brown” and do not have his full legal name leave the name blank and explain in the letter and request to be provided with the individual’s legal name.

Note: This is a good opportunity to clean up the information in the *Central Securities Registers* and the *Registers of Directors*.

### **Processing**

Attach the completed *Questionnaire* to *Letter No. 2 to with Questionnaire and Draft Transparency Register* (page 56).

{NAME OF COMPANY}

(the “Company”)

**QUESTIONNAIRE -- TRANSPARENCY REGISTER**

Complete and sign this form. If you need more space to provide answers, please attach a separate page. Some of the information in this document has been pre-filled before delivery to you. Please complete the missing information and correct any information that is incorrect. If you do not understand this form, or have questions, please contact our corporate department at *insert contact information*.

A private company must annually, within two months of the anniversary of its recognition date, take reasonable steps to confirm that the information required under section 119.2 of the *Business Corporation Act* to be contained in its Transparency Register is accurate, complete and up to date.

A private company may at any time send to a shareholder of the company a request to provide the company with information for the purposes of maintaining its Transparency Register. A shareholder, after receiving such a request, must, after taking reasonable steps to compile the requested information, promptly send to the private company the information that the shareholder was able to compile.

Shareholders of a private company must take all reasonable steps to respond to a private company’s request for information to maintain its Transparency Register. Individuals who are non-compliant with this requirement may also face **penalties** of up to **\$50,000**.

If the Shareholder is not an individual (i.e. another company or corporation, trust or other such entity), insert the name of the person who controls that entity. An individual has control over a company if he or she directly or indirectly owns or controls 25% or more of the shares of a company; or has the right to elect or appoint a majority of the directors of the Company. Please refer to the Memorandum previously forwarded to the Company if you require clarification.

**PLEASE PRINT**

|    |                                |   |
|----|--------------------------------|---|
| 1. | Full legal name of shareholder | ①   |
| 2. | Address                        | ①   |
| 3. | Date of Birth                  |   |
| 4. | Number and Class of shares     |   |
| 5. | Citizenship                    | <input type="radio"/> Canadian <input type="radio"/> Permanent Resident<br><br>If not Canadian or Permanent Resident of Canada, list all countries of which you are a Citizen:<br>_____ |

|   |  |  |   |
|---|--|--|---|
| 6 | Are you a resident in Canada for the purposes of the <i>Income Tax Act</i> (Canada); | <input type="radio"/> Yes <input type="radio"/> No |   |
| 7 | Date you became a significant individual   | Date: _____  |   |
| 8 | How did you become a significant individual? (check one)                             | <input type="radio"/>                              | Registered holder either individually or jointly of a significant number of shares <sup>(1)</sup>   |
|   |  | <input type="radio"/>                              | Beneficial owner either individually or jointly of a significant number of shares <sup>(1)</sup>  |
|   |  | <input type="radio"/>                              | Indirect ownership of control either individually or jointly over a significant number of shares, see attached memo for definition of “control”   |
|   |  | <input type="radio"/>                              | The right to elect, appoint or remove the majority of directors of the Company  |
|   |  | <input type="radio"/>                              | Indirect control, of the right to elect, appoint or remove one or more of the company's directors (see attached memo for definition of “control”)   |
|   |  | <input type="radio"/>                              | The ability to exercise direct and significant influence over an individual who has the right or indirect control to elect, appoint or remove the majority of directors of the Company                                      |
| 9 |  | <input type="radio"/>                              | I have interests that, when combined with another person with whom I am acting in concert or with whom I am associated, I am a significant individual as set out in one of the options above (see item 7 of the Memorandum) |

- <sup>(1)</sup> “Significant number of shares”, in respect of a private company, means either of the following:
- (a) 25% or more of the issued shares of the company;
  - (b) issued shares of the company that carry 25% or more of the rights to vote at general meetings.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Name)

**THIS PAGE IS INTENTIONALLY LEFT BLANK**

**LETTER NO. 2 TO COMPANY**  
**With Questionnaire and Draft Transparency Register**

**General Notes**

This letter is prepared when the company has given instructions to the law firm to prepare and maintain the *Transparency Register* on its behalf.

**Preparation**

- ① When it is not possible to determine who the significant individual(s) is (or are), replace this paragraph with one of the following. Note, these are examples only and there may be many other variants of the situations.

“On review of the records of the Company maintained by our office we have been unable to determine who are the significant individuals as defined by the British Columbia *Business Corporations Act* explained in our earlier Memorandum because:

***Optional paragraph – if a holding company holds 25 per cent of shares or more:***

XYZ Holdings Ltd. (“XYZ”) holds *{number}* shares of the Company. As we do not act for XYZ, we ask that you provide us with the information with respect to the significant individual(s) of XYZ.

***Optional paragraph – if a family trust holds 25 per cent of shares or more:***

YYY (“YYY”) as the Trustee of the XXX Family Trust holds *{number}* shares of the Company accordingly, YYY must be listed as significant individual in the Transparency Register because of his direct ownership of the shares.

The beneficiaries of the trust are AAA and BBB. and they must be listed as they have a 25 per cent interest in the Company. Accordingly, each should complete and sign the attached Questionnaire.

***Or:***

We do not have the names of the beneficiaries of the XXX Family Trust and ask that you provide us with this information and have each beneficiary complete and sign the attached Questionnaire.

***If there are several companies that each hold 25 per cent of shares or more:***

Please note that the two shareholders of the Corporation are:

1. XYZ Company Ltd. (“XYZ”) holds *{number}* shares. As we do not act for XYZ, we ask that you provide us with the information with respect to the significant individual(s) of XYZ.
2. 0000 B.C. Ltd. (“0000”) holds *{number}* shares. The shareholder of 0000 that holds 54 shares (out of 100) is DEF Holdings Ltd. (“DEF”). As we do not act for DEF, we ask that you provide us with the information with respect to the significant individual(s) of DEF.”

**Processing**

Make one copy of the letter for the file.

Ensure that all enclosures are attached and that you have copies of all enclosures for the file.

Diarize the deadline date in the letter for two to three weeks.

File No. \_\_\_\_\_

*{date}*

*{name and address of the company}*

Dear \_\_\_\_\_:

**Re: *{name of the Company}* (the “Company”)  
Transparency Register**

Thank you for your instructions to prepare and maintain the Company’s Transparency Register as described in our previous correspondence.

① On review of the records of the Company maintained by our office we have determined that the following person(s) is/are (a) significant individual(s) as defined pursuant in the British Columbia *Business Corporations Act* and explained in our earlier Memorandum:

1. *{name of significant individual};*
2. *{name of significant individual}.*

We enclose:

1. Transparency Register Questionnaire(s) to be completed and signed by each significant individual and returned to us by *{date}* for further handling.
2. new Registered and Records Offices Agreement which we would ask you to sign and return to us. The new Agreement encompasses your new instructions to prepare and maintain the Transparency Register in addition to our previous engagement.

For your information and further assistance, we have prepared and enclose a draft Transparency Register and also enclose copies of:

1. the Company’s Central Securities Register(s); and
2. the Company’s Register of Directors.

Do not hesitate to contact the writer if you have any questions or concerns in connection with the foregoing.

Yours truly,

***{NAME OF LAW FIRM}***

## TRANSPARENCY REGISTER

### General Notes

For a more detailed explanation regarding completing, updating and maintaining the *Transparency Register* as well as the location and access to it, refer to the *Memorandum* (page 40).

Complete and update this register:

- (a) when you have received from the significant individual(s) all the information in the completed and signed *Questionnaire* (page 52);
- (b) annually, within the period starting on the anniversary of the company's recognition, and ending two months after that date, when you should take reasonable steps to confirm that the required information is accurate, complete and up to date; and
- (c) when there are any changes in the required information, within 30 days after becoming aware of the information.

### Preparation

If you do not have a database and document assembly program, the most convenient way to create and complete the form is to use the table feature of your word processor.

For each significant individual, insert or complete or check the appropriate box:

- ① the full legal name and the last known address;
- ② date of birth;
- ③ whether or not the individual is a Canadian Citizen or permanent resident of Canada. For the definition of "permanent resident", see the *Immigration and Refugee Protection Act (Canada)*;
- ④ if the individual is **not** a Canadian citizen or a permanent resident of Canada, every country or state of which the individual is a citizen;  
whether or not the individual is resident in Canada for the purposes of the *Income Tax Act (Canada)*;
- ⑥ a description of how the individual became a significant individual;
- ⑦ the date of the transaction that resulted in the individual becoming a significant individual (for example: incorporation or a change of shareholders resulting from a reorganization).
- ⑧ the date on which the individual ceased to be a significant individual.
- ⑨ If there are no individuals who are significant individuals, check this box.

### Processing

File the completed *Transparency Register* under the *Transparency Register tab* or in a pre-approved location so that the *Transparency Register* is not accidentally released to or inspected by persons who are not authorized to inspect it (see page 36).

**TRANSPARENCY REGISTER**

**TRANSPARENCY REGISTER**  
*{COMPANY NAME}*

Last Updated: \_\_\_\_\_

| Full Name and last known Address of Individual with Significant Control | Date of Birth | Canadian  |   | Country/State of Not-Canadian Citizens | Resident of Canada for Income Tax Act purposes ⑤            | Description of How Significant Control is Held | Date of Becoming Significant Individual | Date of Ceasing to be Significant Individual |
|---|---------------|---|---|--|---|--|---|--|
|   |               | Citizen. ③  | Perm. Resident ④  |  |   |  |   |  |
| ①   | ②             | <input type="checkbox"/> Yes<br><input type="checkbox"/> No | <input type="checkbox"/> Yes<br><input type="checkbox"/> No | ④                                      | <input type="checkbox"/> Yes<br><input type="checkbox"/> No | ⑥  | ⑦                                       | ⑧  |
|   |               |   |   |  |   |  |   |  |
|   |               |   |   |  |   |  |   |  |
|   |               |   |   |  |   |  |   |  |
| ⑨ There are no individuals who are significant individuals              |               |   |   |  |   |  |   |  |

*Steps Taken to Confirm Information (by individual)*

| Name of Significant Individual | Steps Taken | Date |
|--------------------------------|-------------|------|
|                                |             |      |
|                                |             |      |

OR

*Steps Taken to Confirm Information (by Company)*

| Date | Steps Taken |
|------|-------------|
|      |             |
|      |             |

## **NOTICE TO INDIVIDUAL Who Becomes a Significant Individual**

### **General Notes**

A private company must, within 10 days after indicating in its *Transparency Register* that an individual is a significant individual send to that individual a notice that sets out this fact.

### **Preparation**

Prepare one *Notice* for each individual that becomes a significant individual.

- ① Insert the date that the name of the individual was entered in the *Transparency Register*. It may not be the date of the transaction (allotment, transfer, etc.).
- ② Insert the explanation why the individual has become a significant individual, for example:
  - On *{date} {number of shares}* were issued and allotted to you
  - On *{date} {number of shares}* were transferred from *{name}* to youresulting in you holding a significant number of shares as defined in the British Columbia *Business Corporations Act*.

### **Processing**

First: send the *Notice* to the company for its signatures with *Letter No. 3 to Company with Notice to Individual who Becomes or Ceases to be a Significant Individual* (page 64).

Once the signed *Notice* is returned to the law firm, send the signed *Notice to the Significant Individual* with *Letter No. 4 with Notice to individual who Becomes or Ceases to be a Significant Individual* (page 66).

Alternatively, you may send the unsigned *Notice* to the company at this time with instructions to sign it and deliver it to the individuals who have become significant individuals.

*{NAME OF COMPANY}*

(the “Company”)

**NOTICE TO SIGNIFICANT INDIVIDUAL**

**To:** *{Name of Significant individual}*

**TAKE NOTICE THAT,**

Pursuant to section 119.41 of the British Columbia *Business Corporations Act*, the Company gives you notice that on ①*{date}* you have been entered as a significant individual in the Company’s Transparency Register as ②.

Dated: \_\_\_\_\_

*{NAME OF COMPANY}*

Per: \_\_\_\_\_  
Authorized signatory

## NOTICE TO INDIVIDUAL Who Ceases to be a Significant Individual

### General Notes

A private company must, within 10 days after indicating in its *Transparency Register* that an individual has ceased to be a significant individual, send a notice to that individual that sets out this fact.

In addition, within one year after the sixth anniversary of the date on which an entry is made in a private company's *Transparency Register* indicating that an individual has ceased to be a significant individual in respect of the company, the company must:

- (a) delete from its *Transparency Register* all information relating to the individual; and
- (b) destroy any record that the company created or received in respect of the individual for the purposes of maintaining the *Transparency Register*.

### Preparation

Prepare one *Notice* for each individual that ceases to be a significant individual.

① Insert the date that was entered in the *Transparency Register* indicating that the individual ceased to be a significant individual. It may not be the date of the transaction (transfer, redemption, etc.).

② Insert the explanation why the individual has ceased to be a significant individual, for example:

On {date} {number of shares} were transferred from you to {name};

On {date} {number of shares} were repurchased/redeemed;

resulting in you ceasing to hold a significant number of shares as defined in the British Columbia *Business Corporations Act*.

### Processing

First: send the Notice to the company for its signatures with *Letter No. 3 to Company with Notice to Individual who Becomes or Ceases to be a Significant Individual* (page 64).

Once the signed Notice is returned to the law firm, send it to significant individual with *Letter No. 4 with Notice to individual who Becomes or Ceases to be a Significant Individual* (page 66).

Diarize the file for six years from the anniversary date of the date indicated in the *Transparency Register* that the individual **ceased** to be a significant individual. At that time, if the company's records are still at the law firm:

- the *Transparency Register* must be updated by deleting all information relating to the individual; and
- all record that the company created or received in respect of the individual for the purposes of maintaining the *Transparency Register* must be destroyed (for example, old copies of the *Transparency Register* and the *Questionnaire*).
- Alternatively, you may send the unsigned Notice to the Company at this time with instructions to sign it and deliver it to the individuals who have ceased to be significant individuals.

*{NAME OF COMPANY}*

(the “Company”)

**NOTICE TO SIGNIFICANT INDIVIDUAL**

**To:** *{Name of Significant individual}*

**TAKE NOTICE THAT,**

Pursuant to section 119.41 of the British Columbia *Business Corporations Act*, the Company gives you notice that on ①*{date}* you ceased to be a significant individual for the purposes of the Company’s Transparency Register as ②.

Your personal information as a significant individual will be removed from the register six years from the date of this notice.

Dated: \_\_\_\_\_

*{NAME OF COMPANY}*

Per: \_\_\_\_\_  
Authorized signatory

**LETTER NO. 3 TO COMPANY**  
**With Notice to Individual who Becomes or**  
**Ceases to be a Significant Individual for signature by the Company**

**General Notes**

This letter is prepared when the law firm receives information that an individual (or individuals) has become or ceased to be a significant individual.

Section 119.41 of the Act requires that a private company must, within 10 days after indicating in its *Transparency Register* that an individual has become, or has ceased to be, a significant individual in respect of the company, send a notice to the individual that sets out this fact.

**Preparation**

- ① List the name(s) of the individuals that have become or ceased to be significant individuals.
- ② Insert the date that is six years after the date in the *Transparency Register* on which the significant individual has ceased to be a significant individual.
- ③ The procedure for diarizing such a date is now considered in order to develop a practical system. For example, the company may have left the law firm.

**Processing**

Prepare and attach Notices to significant individuals who have ceased to be significant individuals.

Make one copy of the letter and enclosures for the file.

Diarize the date that is six years from the appropriate notation in the *Transparency Register*.

Alternatively, you may send the unsigned Notice to the company at this time with instructions to sign it and deliver it to the individuals who have ceased to be significant individuals.

File No. \_\_\_\_\_

*{date}*

*{name and address of the company}*

Dear \_\_\_\_\_:

**Re: *{name of the Company}* (the “Company”)  
Transparency Register**

Thank you for returning the completed Questionnaire(s) and Transparency Register.

Section 119.41 of the British Columbia *Business Corporations Act* requires that a private company must, within 10 days after indicating in its Transparency Register that an individual is, or has ceased to be, a significant individual in respect of the Company, send a notice to the individual that sets out this fact.

Accordingly, we have prepared and enclose notices to:

- (a) ① *{name of individual}*
- (b) ① *{name of individual}*.

If you find the Notice to be in order, please sign it where indicated and return it to us and we shall forward same to the above individuals.

***Insert the following paragraphs if the Notice is to an individual that ceases to be a significant individual***

Please note that, within one year after the sixth anniversary of the date on which an entry was made in the transparency register indicating that an individual has ceased to be a significant individual in respect of the Company, the Company must:

- (a) delete from its Transparency Register all information relating to the individual; and
- (b) destroy any record that the company created or received in respect of the individual for the purposes of maintaining the transparency register.

Accordingly, this must be done within one year of ② *{date}*. Each year when the Company reviews its Transparency Register it will be important to note any upcoming deadlines for the removal of information in relation to significant individuals. We have diarized the date for future handling. ③

Do not hesitate to contact the writer if you have any questions or concerns in connection with the foregoing.

Yours truly,

***{NAME OF LAW FIRM}***

**LETTER No. 4 WITH NOTICE TO INDIVIDUAL  
Who Becomes or Ceases to be a Significant Individual**

**General Notes**

This letter accompanies a Notice to an individual to either has become or has ceased to be a significant individual as required by the Act.

**Preparation**

- ① Insert the date a notation was made in the *Transparency Register* indicating that the individual has ceased to be a significant individual.

**Processing**

Make one copy of the letter for the file.

Attach the original Notice and keep a copy on the file.

If it is your office's policy, send a copy of the letter and the enclosure to the company.

File No. \_\_\_\_\_

*{date}*

*{name and address of the individual}*

Dear \_\_\_\_\_:

**Re: *{name of the Company}* (the “Company”)  
Transparency Register**

*Insert when the individual has become a Significant Individual*

As you have become a Significant Individual and your name has been entered in the Transparency Register, we enclose the Notice required by section 119.41 of the British Columbia *Business Corporations Act*.

*Insert when the individual has ceased to be a Significant Individual*

As you have ceased to be a Significant Individual and, on *{date}* ①, an entry to that effect was made in the Transparency Register, we enclose the Notice required by section 119.41 of the *British Columbia Business Corporations Act*.

Please note that, within one year after the sixth anniversary of the date on which an entry is made in a private company's Transparency Register indicating that an individual has ceased to be a significant individual in respect of the company (being *{date}* ①), the Company must:

- (a) delete from its Transparency Register all your information relating to your designation as a Significant Individual; and
- (b) destroy any record that the company created or received in respect of your designation as a significant individual for the purposes of maintaining the Transparency Register.

We have advised the Company of their requirements accordingly.

Do not hesitate to contact the writer if you have any questions or concerns in connection with the foregoing.

Yours truly,

***{NAME OF LAW FIRM}***

cc: Company

**LETTER NO. 5 TO THE COMPANY**  
**That Prepares Its Own Transparency Register**

**General Notes**

This letter is prepared for **Option 2** (see Explanation page 36) when a company **does not wish** the law firm to prepare and maintain the *Transparency Register*.

The Act states that a private company must keep its *Transparency Register* at its records office. However, a private company may keep its *Transparency Register* at a location other than its records office if the directors so determine by a resolution. If the directors of the company decide on another location than the records office of the company as long so long as the register is available for inspection and copying at its records office by means of a computer terminal or other electronic technology.

**Processing**

Attach to the letter:

- Blank form of *Transparency Register*;
- *Directors Resolution re: Transparency Register*;
- *Notice of Location*.

Diarize the date in the letter

File No. \_\_\_\_\_

*{date}*

*{name and address of the company}*

Dear \_\_\_\_\_:

**Re:   *{name of the Company}* (the “Company”)  
      **Transparency Register****

We acknowledge receipt of your instructions that the directors of the Company will prepare and maintain the Transparency Register required by Part 4.1 – Transparency Register of the *Business Corporations Act S.B.C. 2002, c. 57 (the “Act”)*.

Please note that it will be your responsibility to create and update the Transparency Register and to give notice to individuals who either become or cease to be significant individuals.

Please further note that the Act requires that the Transparency Register be kept at the Company’s records office. However, the Register may be kept at another location to be determined by the Directors of the Company so long as it is available for inspection and copying at that location by means of a computer terminal or other electronic technology. In addition, the Company must ensure that the Register is available for inspection for a period of at least two consecutive hours per day within statutory business hours.

Accordingly, we enclose the following to be completed and signed where indicated, and returned to us on or before *{date}*:

1. a blank Transparency Register;
2. Consent Directors’ Resolution with respect to the Transparency Register;
3. Notice of Location.

Please return the signed Resolution to us for filing in the Company’s Records Book.

We will continue to provide you with an annual copy of this resolution in order to ensure continuity of the Company’s instructions on this matter.

Please advise us should you require another copy of the Memorandum previously forwarded to you in order to guide you in the creation and maintenance of the Transparency Register and other requirements relating to it.

Do not hesitate to contact the writer if you have any questions or concerns in connection with the foregoing.

Your truly,

***{NAME OF LAW FIRM}***

## **DIRECTORS RESOLUTION**

### **Re: Transparency Register**

#### **General Notes**

This Resolution is prepared for **Option 2** (see Explanation on page 36) when a company does not wish the law firm to prepare and maintain the *Transparency Register* and wishes to do it itself.

#### **Preparation**

- ① Insert the address where the *Transparency Register* will be kept ensuring that:
  - it is available for inspection and copying at its records office by means of a computer terminal or other electronic technology; and
  - the Register is available for inspection for a period of at least two consecutive hours per day within statutory business hours.
- ② Insert the date of the Resolution.
- ③ Check the *Register of Directors* of the company and insert the names of all directors.

#### **Processing**

Once the document has been prepared, checked and approved by the supervising solicitor, make a copy for the file and forward the original to the client – see *Letter No. 5 to Company preparing its own Transparency Register* (page 68).

When the signed Resolution comes back, file it in the company's Records Book, under the tab "**Director's Minutes/Resolutions**".

**DIRECTORS RESOLUTIONS**  
**OF**  
*{NAME OF COMPANY}*  
 (the “Company”)

**WHEREAS:**

- A. Section 119.5(2) of the British Columbia *Business Corporations Act* (the “Act”) permits the directors to determine a location for the Transparency Register (the “Register”) other than the records office.
- B. Section 119.51 of the Act, requires that the person who maintains the records office for a private company must take reasonable steps to:
- (a) keep the company's Transparency Register in a complete state;
  - (b) avoid loss, mutilation or destruction of the Transparency Register, except as required under section 119.4;
  - (c) avoid falsification of entries in the Transparency Register;
  - (d) provide inspecting officials and the company's directors with simple, reliable and prompt access to the Transparency Register;
- and that person must ensure that the company's Transparency Register is maintained in an electronic form; on microfilm or in a bound or looseleaf form.
- C. The Director(s) believe(s) it is in the best interests of the Company and its shareholders, for privacy and other reasons, to keep the Register at a location other than the records office.

**RESOLVED THAT:**

1. Pursuant to section 119.5(2) of the Act, the Register be located at ①.
2. The director of the Company prepare and maintain the Register pursuant to section 119.51 of the Act.
3. The Company send notice to individuals when they either become or cease to be significant individuals as defined in the Act.
4. The director be authorized to execute a Notice of Location with respect to the Transparency Register to be kept at the records office of the Company.

Dated effective: *{Date}* ②

---

③ *{NAME OF DIRECTOR}*

---

③ *{NAME OF DIRECTOR}*

## **NOTICE OF LOCATION**

### **General Notes**

If the directors of the company decide to keep the *Transparency Register* at a location other than the company's records office, a notice showing where the *Transparency Register* is located must be inserted in the company's Records Book, under the tab "Transparency Register".

### **Preparation**

- ① Insert the date of the Resolution (page 70).
- ② Insert the address of the location of the *Transparency Register* from the Resolution (page 70).

### **Processing**

Once the document has been prepared, checked and approved by the supervising solicitor, make a copy for the file and forward the original to the client – see *Letter No. 5 to Company preparing its own Transparency Register* (page 68).

When the signed Notice comes back, file it in the company's Records Book, under the tab "Transparency Register" (see page 36).

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**NOTICE OF LOCATION**

**TAKE NOTICE** that the Directors of the Company have, by Consent Resolution dated *{date}*①, designated the location at which the Company’s Transparency Register is available for inspection and copying at *{location}*② and that a notice to that effect be inserted in the Company’s Records Book.

Dated: \_\_\_\_\_

*{NAME OF THE COMPANY}*

\_\_\_\_\_  
Director



## **LETTER FOR UPDATING INFORMATION RE: TRANSPARENCY REGISTER**

### **General Notes**

As a private company must annually, within 60 days of the anniversary of recognition, take reasonable steps to confirm that the information contained in its *Transparency Register* is accurate, complete and up to date, it is necessary to add this reminder to the annual maintenance procedure. If the law firm decides to do in such a manner, the paragraphs opposite should be included in the letter to the client sending out the *Annual Report*.

If a company is unable to obtain or confirm some or all of the information contained in the *Transparency Register* as part of the company's annual review, the company must record in the *Transparency Register* within two months of the anniversary of the company's recognition date the following:

- the information obtained or confirmed by the company; and
- statement that the company was not able to obtain or confirm the information and a summary of the steps taken to obtain or confirm the information.

Although each firm must decide its own policy on how to handle the update of the *Transparency Registers* at the time of the *Annual Report*, the restrictions under 119.61(2) of the Act on who the registered office can send the *Transparency Register* to is very limited.

ë **A person who maintains the records office for a private company must not allow anyone to inspect the company's transparency register except an inspecting official, or a director of the company (Section 119.61(2) (2) of the Act).**

In other words: the Act does not allow the law firm acting as the records office for a company to send the *Transparency Register* to an officer or administrator, It can only be sent to a director or inspecting individual.

We suggest that only the names of the significant individuals be listed in the letter with a request to inform the law firm of any changes to address, ownership of the shares or tax status.

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## Transparency Register

We refer to our previous correspondence and your instructions for the law firm to prepare and maintain a Transparency Register. As previously advised, a private company must annually, within 60 days of the anniversary of its recognition (incorporation, amalgamation or continuation), take reasonable steps to confirm that the information contained in its Transparency Register is accurate, complete and up to date.

Our records indicate that the following individuals are listed on the Transparency Register as significant individuals:

1. *{name}*
2. *{name}*

Please advise if there has been any change to the significant individuals' address, or residency or if there has been any change to the beneficial ownership of the shares of the Company which may affect the information in the Register.

If there have been any changes, especially if there are new significant individuals, please complete the attached Transparency Register Questionnaire for each new Significant Individual and return it to us for our further attention.

*{Insert the reminder below if the Transparency Register Questionnaire has not been returned}*

We refer to our letter to you dated *{date}*, in which we advised you that, as of October 1, 2020 the Company is required to maintain a Transparency Register and enclosing Transparency Register Questionnaire(s) for the significant individuals who control the Company. These Questionnaires should be completed and returned to us. To date, we have not received them, nor any instructions from you regarding the preparation of the Transparency Register. Please note that there are financial penalties for failure to prepare and maintain this Register. Please contact us at your earliest convenience to discuss your options.

