



**The Legal Framework
for
Company Start-up
in Mozambique**

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1.INTRODUCTION

This booklet is the first of a series aimed at helping investors do business in Mozambique. It is based on the idea that informed investors can more easily follow the law, and the conviction that the rule of law is the best guarantor of property and of orderly and sustained development.

The series has been developed jointly by our two institutions, SAL Consultoria e Investimentos, Lda. and ACIS (the Sofala Commercial & Industrial Association). By combining the experience of a leading business association with that of a legal and management consulting firm, we hope to give investors clear, practical advice with a sound basis in law.

As we prepared this booklet, we found ourselves at times disagreeing over what was proper procedure in respect of certain official acts. We learned that that was because, in some cases, the same matters were handled slightly differently in Beira and Maputo. While the differences are not of great consequence, for clarity of exposition we decided to follow this simple rule: we describe procedures as conventionally done in Beira, and cite Maputo variations on the Beira theme in the occasional footnote. Of course, the day-to-day application of the rules may be different in Quelimane or elsewhere in the country. While the sources of law governing most of these procedures (with the exception of municipal law), are national, of course, local interpretation of national law can generate distinct practices.

We also had to choose between describing procedures as they apply to limited liability quota companies (colloquially know as *limitadas*) and limited liability share companies (colloquially know as SARLs. We define both of these terms below). Because the great majority of start-up companies in Mozambique are organized as *limitadas*, we chose the *limitada* as our prototypical form of legal person. We describe variable treatment as it applies to SARLs in occasional footnotes.

On many occasions in the text of this English language edition, where we have been faced with a choice of whether to use a term in English or in Portuguese, we have used the term in Portuguese. While this may seem, in the short term, disadvantageous to the reader unfamiliar with Portuguese, in the long term she will become more conversant and comfortable with the basic vocabulary of corporate governance in Mozambique. The effort is one worth making.

Much of the legislation cited in this booklet is available in both Portuguese and English. You may download it from ACIS' web site, **www.acisofala.com**.

While we have tried our best to be accurate, we may have made some mistakes, and we certainly made some omissions. Also, law and public administration are dynamic subjects, and it is very likely that in the near future, some law or regulation described herein will be changed. We hope to correct the mistakes and supply the omissions in a second edition, so please do tell us of any that you find. In the meantime, the detailed nature of the subject matter and ordinary prudence both compel us to disclaim liability for those errors or omissions. In cases of doubt, readers would do well to consult legal counsel.

We hope that you find this booklet and the others in the series useful. Mozambique is a wonderful country and, as an entrepreneur creating wealth and employment, you have an important role to play in building it. Our role is to help you do yours. Força!

We would like to thank the International Finance Corporation (IFC) and GTZ for their belief in and support of this booklet.

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2. GLOSSARY OF TERMS

Please find below a list of some of the terms you will encounter during the process of incorporating and registering your company. Defined terms are set forth in bold typeface.

Águas de Moçambique	Local water company. Águas de Moçambique is a private company supplying water under contract in various Mozambican cities. It invoices monthly.
Alvará	Company trading or operating license.
Assembleia Geral	The General Assembly of a company, sometimes also called the General Meeting. The Assembleia Geral is the highest corporate body of a company; it is composed of the quotaholders or their representatives. The Assembleia Geral elects the management of the company. The Assembleia Geral must by law meet at least once a year and may meet more often. The minutes of those meetings are recorded in the Livro de Actas .
Assinatura Reconhecida	Signature on a document compared to that in an identity document and stamped as corresponding thereto, by the Notary .
Auto de Vistoria	Certificate of Inspection of company premises. To be signed by inspectors from CHAEM , Bombeiros , and the relevant Provincial Directorate, as well as by the municipal council where relevant.
Autorização de Trabalho	Work authorisation issued by INEFP to foreign employees (as distinct from shareholders or their representatives). Usually valid for two years.
Balancete	Long hand accounting book purchased at government stationers, stamped and signed by the Court and Provincial Finance Department.
BI	Bilhete de Identidade, or Mozambican Identity Card. Every Mozambican worker must have a current one of these.
Boletim da Republica	The official gazette of the Government of Mozambique, in which laws and regulations, as well as companies' articles of association, must be published.
Bombeiros	The Provincial Fire Department, who will send a representative to inspect the safety of your premises. This department can inspect your offices at any time
Caderneta de Controlo Sanitário	Health and Safety Inspection Book. Purchased then stamped by CHAEM . Must be available for inspection at company offices.
Cartão de Contribuinte	Individualized social security identification card provided by INSS (the National Institute for Social Security) to each worker. A copy should be kept in the worker's personnel file.
Cartão de Desemprego	Provincial Labor Department registration document. Every new employee must have one. Rarely requested in Maputo.
Certidão de Registo Comercial	Certificate of commercial registration of a company, sometimes called for short the certidão comercial. It comes in two varieties: a provisional one, valid for 90 days and therefore called provisório, and a permanent one, called definitivo.
Certidão de Registo Negativo	Certificate issued by the Conservatório de Registo affirming that there exists no company with same name as the name by which the incorporators propose to call their company, in the geographical region covered by that Conservatório de Registos and reserving that name for 90 days.
CHAEM	The Centro de Higiene, Ambiente e Exames Medicos, a division of the Provincial Health Department. CHAEM inspects company premises for health and safety prior to and as a condition of licensing, and carries out health checks on new employees. (This latter procedure is not often done in Maputo.) CHAEM can inspect company premises at any time.
Conservatório de Registo	Commercial and Property Registry. In Maputo, commerce and property registration are handled by distinct registries, the Conservatório de Registo Comercial and the Conservatório de Registo Predial.
Cópia autenticada	Copy of a document compared to the original and stamped as corresponding thereto by the Notary

Data de Início de Actividade	The date you specify, in communications to various government departments, as the date on which you company will start trading. Periodic accounts must be submitted from this date and no item can be invoiced prior thereto.
DIRE	Documento de Identificação e Residência para Estrangeiros, or Foreigners' Identification and Registration Document. A DIRE is issued by the Provincial Immigration Department on the basis of an Autorização de Trabalho or Permissão de Trabalho issued by INEFP . (In Maputo, the DIRE is issued by the National Department of Immigration). DIREs are usually required to be renewed annually
DUAT	Direito de Uso e Aproveitamento de Terra or land usage title
EDM	Electricidade de Moçambique, the national power company. EDM invoices monthly.
Escritura Pública	Literally, a public deed. In the context of company incorporation, the term is sometimes used as shorthand for the handwritten (or increasingly in some provinces, computer printed) extract of the articles of association prepared by the Notary , with certain other documents attached.
Estatutos	The articles of association of a company, supplying the rules by which corporate life and the relationship between the quotaholders will be conducted.
Folha de Salário	Pay schedule. This must be completed in duplicate with the worker signing both copies and also receiving a take-home breakdown of his salary. The schedule must contain all deductions and is submitted monthly to the Provincial Labor Department by the 10 th of the subsequent month.
Horário de Trabalho	Work schedule form outlining the hours during which the company will be open for business. The Horário de Trabalho must be approved by Provincial Labor Department and displayed at the company's offices.
INEFP	Instituto Nacional de Emprego e Formação Profissional, or National Employment and Professional Training Institute. Among other functions, INEFP receives an application for and issues an Autorização de Trabalho and a Permissão de Trabalho to a foreigner worker.
INSS	Instituto Nacional de Segurança Social, or National Institute for Social Security, the institution that administers the social security system. Workers pay 3% of their salaries, withheld at the source, to which the employer adds a further 4% contribution. Payments must be made monthly by the 10 th of the subsequent month. The term INSS is sometimes used as shorthand to refer to the social security tax itself.
IRPS	Imposto sobre o Rendimento da Pessoa Singular, or Personal Income Tax. A tax on income withheld at the source from all employees listed on the Folha de Salário (national and foreign), and payable by the employer by 20 th of month. Rates vary in accordance with income, and supplemental payments may be due from the employee the following year based on his or her total income.
IVA	Imposto sobre o Valor Acrescentado, or Value Added Tax. Currently set at 17%. Some goods are exempt.
Livro da Razão	Long hand accounting book purchased at government stationers, stamped and signed by the Court and the Provincial Finance Department.
Livro de Actas	Company minute book, in which the minutes of meetings of the Assembleia Geral are recorded.
Livro de Reclamações	Complaints book. Each government department must have one. It can be used to raise both general and specific complaints.
Livro Diário	Long hand accounting book purchased at government stationers, stamped and signed by the Court and Provincial Department of Finance.
Modelo 6	The form by means of which one applies for a NUIT .
Notary	The Provincial Registry and Notary Department, responsible for the preparation of public deeds (including for the incorporation of companies), official validation of certain other legal acts, and authentication of signatures and documents, among other duties. In Maputo, there are a variety of notarial offices distributed around the city.
NUIT	Número Único de Identificação Tributário, or tax registration number. The NUIT is sometimes also referred to as the VAT registration number. The NUIT must be clearly

	printed on all invoices and receipts, as well as being shown on any invoices and receipts submitted into the company accounts. Individuals' personal tax identification numbers are also referred to as NUITs .
Permissão de Trabalho	Work permit issued by INEFP to foreign directors or quotaholders (as distinct from foreign employees). Usually valid for two years.
Plano de Férias	Company leave schedule prepared annually in accordance with the Labor Law. The Plano de Férias must be displayed at the company's offices.
Processo Individual	Personnel File. A processo individual must be created for each new employee, and should contain the employee's photograph, BI , labor contract, cartão de desemprego , health certificate issued by CHAEM . It is also where other personnel records are to be kept. In Beira, special files for the processo individual may be purchased.
Procuração	Power of Attorney, a grant by one person to another to represent him, usually for certain limited purposes, as appropriate to the context.
Relação Nominal	List of all employees (national and foreign, including quotaholders) on the Folha de Salários , including details of salary, grade, and educational attainments, among other details. Prepared on a form sold at the Provincial Department of Labor or government stationers. The Relação Nominal must be displayed at the company's offices.
Relação de Estrangeiros	List of all foreigners employed by the company (including quotaholders and their representatives as well s employees). Until the requirement to supply this list was repealed by operation of Decree n° 57/2003 of 24 December, it was obligatory to submit the Relação de Estrangeiros to the Provincial Department of Labor by 31 January each year. It is no longer necessary to supply the Relação de Estrangeiros but it is worth being aware of this as companies have reported being asked to provide it.
Seguro Colectivo	Workers' insurance. This must be paid by companies for all employees, and usually covers work-related accidents and other risks not covered by INSS .
Taxa de Incêndio	Fire tax, calculated as a percentage of company's profits and payable to the Municipal Council. We are not aware of any such tax in Maputo.
Taxa de Lixo	Municipal rubbish collection tax, payable monthly or annually to the Municipal Council. In Maputo, the taxa de lixo is sometimes included on a utility bill rather than being collected directly.
TDM	Telecomunicações de Moçambique, the national telephone company. Having connected your line, contact TDM on 177 between the 15 th and 30 th of each month to receive a statement of your account, which must be paid by the 30 th .
Vistoria	Inspection by officers of the relevant Provincial Directorate, Bombeiros and CHAEM of the company's premises, prior to issuing an Alvará .

3. INCORPORATION AND COMMERCIAL REGISTRATION

3.1 INCORPORATION

Incorporation, as the name itself implies, is the process by which the law confers legal personality on a business enterprise that we call in this booklet, and in ordinary speech, a company. One of the most important qualities of a modern company, in Mozambique as elsewhere, is limited liability. This means that the owners of the company – whether shareholders or, as in the present case of the *limitada*, the quotaholders – are only liable to third parties up to the amount they contributed to the capital of the company. If the company becomes insolvent, the disappointed creditors cannot reach the quotaholders' personal assets.

Allowing ordinary people freely to organize their business endeavors in the form of limited liability companies was an innovation of 19th century Western legal systems. But

in exchange for this easy access to the legal benefits of limited liability, the law insists that a certain number of formalities be completed. And if those formalities – detailed below – are slighted, then the business endeavor may not have legal personality distinct from that of its promoters. So please be most careful to take each required step, and you will have a reliable corporate vehicle with which to do business in Mozambique.

3.1.1 Name Certificate (*Certidão Negativa*)

The first step to incorporate a company is to select a name and reserve it at the Commercial Registry (*Conservatória do Registo Comercial* or just *Conservatória*). The name chosen should include an indication of what type of business the company will do. At the end of the name, an abbreviation indicating the legal form of the company is appended. In the case of a *limitada*, the abbreviation used is “Lda”.¹

On all official correspondence the name followed by the abbreviation for legal form must be shown.² This serves the purpose, among others, of alerting a third party that the people she is transacting with have limited liability – that is, only the assets that belong to the company are, in principle, available to back up the commitments those people make.

In order to reserve the company name, you send a simple request to the Commercial Registry asking that they verify in their records that no other company with the same or a similar name exists. A model letter of request is included as Annex 1.

In Beira, the request requires a notarized signature. When submitted the request is accompanied by a 500Mt stamp³ and payment of a fee. The fee for normal processing, which takes up to 12 days, is 112,000Mt. The fee for expedited processing, which takes up to three days, is 168,000Mt. A receipt is provided.⁴ (Do keep all your receipts – they are useful as business expenses to offset your revenues.)

Having verified that the name selected is unique and not so similar to any other name as to create confusion in the public mind, the *Conservatória* issues a *Certidão de Registo Negativo*. This has the effect of reserving that name for your use for 90 days – time enough to proceed to the next step in the incorporation process.

There are two details worth remembering about reserving a company name. One is that the *Conservatória* in each city or district is not integrated with all the others. That means, in practice, that a person can successfully reserve a name in Maputo while in Beira, a company with that same name already exists. While not a common event, it does happen from time to time. Second, the Commercial Registry’s records currently consist of a series of ledgers, some of which are quite old, and a search may not always provide accurate results. For those reasons, it is worthwhile doing some research, for example

¹ A limited liability quota company is one in which the participants (quotaholders) are liable for the maximum of their quotas in the company, Law of Quota Companies of 11 April 1901 (*Lei das Sociedades por Quotas*). For a limited liability share company (*Sociedade Anónima de Responsabilidade Limitada*) the abbreviation “S.A.R.L.” is used. In an SARL, the participants in the capital are called “Shareholders”.

² *Lei das Sociedades por Quotas* 11/04/1901 Article 3, paragraph 4.

³ The use of stamps was eliminated for certain documents, such as requests presented to all public institutions, by Decree n°. 32/97, October 14, Article 2 however it is as well to be aware that stamps sometimes continue to be requested

⁴ In Maputo, the letter sent to *Conservatória* does not need to be accompanied by a 500Mt stamp, nor need the signature be notarised. Nor is there a special rate for expedited service. The fee is 77,000Mt, and processing time is ordinarily between seven and ten business days.

using telephone directories from the main urban centers, in order to ensure that the name selected is not already in use.

3.1.2 Public Deed of Incorporation⁵ (*Escritura Pública*)

“Public deed” is simply the name given to the formalities associated with making certain classes of acts or contracts valid and enforceable in Mozambique.⁶ The theory behind the law is that some acts or contracts are so consequential that people need to be alerted to the significance of what they are doing. Hence the law’s insistence both on a bit of ceremony and on the participation of the Notary.⁷ And because the law considers forming a company a consequential act, incorporating a company can only be done by a public deed – in this case, a public deed of incorporation.

The terminology used in this context can be a bit confusing. This is because the same phrase – public deed, or *escritura pública* – is used to denote at least two different but related things. It is used variously to mean the whole, formal affair of incorporation, as well as the document in which an abbreviated account of that formal affair is recorded. Below, we use it in the latter sense, but please be aware that it is often used to denote the former and still other things (such as the extract (*extrato*) of the record that is produced by the Notary to be used for further steps in the incorporation process, described below.) So don’t be too concerned if you’re a bit confused – so is everyone else.

3.1.2.1 *Estatutos* (Articles of Association)

The greatest part of the *escritura pública* consists of the company’s *estatutos*, or articles of association. These are the rules by which the company, and the relationship of the owners of the company as such, will be governed. The *estatutos* can be as simple or detailed as the parties require, but in any event must contain certain key features, as follows⁸:

a. Company name

As registered with the *Conservatória*, including the abbreviation that denotes the legal form the company is taking (in our case, a *limitada*).

b. Location of the company’s headquarters (city or town and province)

The company normally is registered in a city or town within the province where it is to have its headquarters. In most cases this is the provincial capital.

c. Duration of the company

Usually for an unlimited or undefined period, but is also possible for a company to exist for a limited period.

d. Objectives of the company

A company may be registered for a specific objective (for example, tourism) or for a variety of possible objectives. We recommended that, where applicable, companies

⁵ Ibid, Article 2.

⁶ This is equally true in many other civil law jurisdictions. Mozambique’s laws and practices in these regards are descended from Portugal’s, and are squarely in the civil law tradition.

⁷ For the really curious, a list of basic acts and contracts that can only be accomplished by public deed under Mozambican law may be found at Article 89 of the Notaries Code (Código de Notariado).

⁸ Código Comercial, Article 114.

be registered with a broad yet reasonable set of objectives. This allows for expansion or adaptation of the company in future, since the application for any operating license requires proof that the company has the legal capacity to operate in a specific sector. This proof is provided by the article of the company's articles of association that states its objectives.

For example, if a company is originally registered in order to retail computers using a commercial retail license but in the future the directors decide to open a computer training school, the application for a license to open the school will depend in part on whether the company's *estatutos* include training among the Company's objectives.

The inclusion of import and export among the company's purposes allows the company to apply for its import and export licenses.

While it is certainly possible to amend the *estatutos* in the future, there is no good reason to spend the time and money to do so if the company's objectives can be appropriately defined from the start.

e. Names and distribution of capital among quotaholders

A natural person (that is, an individual) must give his full name as it appears in his passport or other identification document.

A legal person, such as a company, must give the name of such legal person as it appears in the company corporate identification document (whether a certificate of incorporation, a charter or another document).

Quotaholdings are expressed in monetary amounts, notwithstanding that capital may be contributed in the form of cash, goods or rights. Sometimes the *estatutos* will cite the percentage of the total capital to which the respective quotaholders' quotas correspond.

At the time of incorporating a *limitada*, the quotaholders must pay in at least 50% of the capital of the company, and must supply the rest within six months thereafter.⁹

Note that a *limitada* must have at least two quotaholders. Their quotas, of course, need not be equal. It is permissible for one ultimate owner to control both quotaholders in a *limitada*.¹⁰

f. Capital

In Portuguese we refer to *capital social*. This is the stated value of the assets the quotaholders have contributed to the company, and may be realized in cash, goods or rights.

The minimum capital allowed with which a *limitada* can be started is 1,500,000Mt (one million and five hundred thousand meticaís). The minimum value of any

⁹ In the case of a SARL, the shareholders must pay in at least 10% of the stated capital at the time of incorporation, and that 10% must be in the form of cash.

¹⁰ By contrast, a SARL must have at least 10 shareholders, unless one shareholder is the State or a private company the majority of which is controlled by the State. In those cases, a SARL may be incorporated with as few as two shareholders.

single quota is 150,000Mt (one hundred and fifty thousand meticaís).¹¹ Each and every quotaholder must have been paid at least 50% of its quota in cash.¹²

In practice, however, the minimal amount is rarely relevant. As explained below, the ordinary means by which investors prove to the Notary, for the purposes of the public deed of incorporation, that they have contributed a proper amount of capital to the company is by showing the receipt for a bank deposit in the relevant amount. And no bank in Mozambique, to our knowledge, will agree to open a corporate account with so small an amount as the minimum capital required to start a *limitada*. The smallest amount of capital, therefore, is in practical terms governed by the smallest sum with which a bank will open an account for a corporate client.

In Beira it is common practice that the minimum value accepted is 10,000,000Mt, and the minimum quota is 10% of the value of the capital. It is also common practice for banks to be unable to open corporate accounts for clients who do not have fully registered companies. The practice of requiring a bank deposit receipt is therefore often not followed in Beira. In Maputo, by contrast, Notaries insist on proof that the required share of the company's capital has been deposited.

g. The way in which quotas may be sold, divided or transferred

It is common, in *limitadas*, for quotaholders and the company itself to have rights of first refusal in respect of another quotaholder's proposed sale, division or transfer to his quota to a third party. This means that before a quotaholder can sell (or otherwise transfer) her quota to a third party, she must first offer that quota to the other quotaholders, or the company itself, on the same terms as offered to the third party. Only if her fellow quotaholders, and the company itself, decline to purchase may she sell her quota to the third party, and only on the terms originally proposed. Rights of first refusal are commonly, though not invariably, set out in the *estatutos*.

Rights of first refusal are useful in *limitadas* because such companies are often run by, or depend importantly on the day-to-day involvement of, their owners – the quotaholders. If one quotaholder could simply sell his quota without the knowledge and, at some level, consent of the others, those remaining quotaholders could suddenly find themselves in business with people they don't know and don't trust.

In any event, any sale or other transfer of a quota is accomplished by public deed.¹³

h. How the company will be managed

As noted above, the highest corporate authority in a *limitada* is the *Assembleia Geral*. Normally, the *estatutos* provide that the *Assembleia Geral* appoints a manager or managers. In some cases they provide that the managers be organized in a

¹¹ Lei das Sociedade por Quotas de 11 de Abril de 1901, Art. 4. In a SARL, by contrast, there is no defined minimum capital amount required to incorporate the company.

¹² Lei das Sociedade por Quotas de 11 de Abril de 1901, Art. 5.

¹³ By contrast, in the case of a SARL, a transfer of shares can be accomplished by an entry on the share register of the company; no public deed is required.

corporate body, and include provision for regular meetings and voting procedures. Usually this is more detail, and turns out to be more of a management headache, than required. In *limitadas*, it is usually advisable to keep the formal management structures as simple as possible.

The titles given to the managers can vary. Quotaholders can be, but need not be, managers.

It is prudent, in the final section of the *estatutos*, to provide for a certain named person or persons to manage the company until the first Assembleia Geral can be held, and managers elected.

i. When and where the company will hold the Assembleia Geral, including the role of the same, and methods of voting

Limitadas must have at least one *Assembleia Geral* annually, on a date that allows the quotaholders to approve the annual accounts for timely submission to the Ministry of Finance. (In these regards, see Section 6, “Accounting and Tax Issues”), below. This meeting is known as the *Assembleia Geral Ordinário*. But the company can hold as many other formal meetings as the quotaholders wish; each such meeting is called an *Assembleia Geral Extraordinário*.¹⁴

Meetings are in principle to be held at the company’s headquarters, but it is increasingly common to provide in the *estatutos* that they may be held elsewhere or, in the alternative, if all the quotaholders agree in the method and content, that a written resolution be circulated and signed in lieu of a meeting.¹⁵

j. Provision regarding yearly accounts and the payment of dividends.

The general rule under Mozambique’s General Accounting Plan (*Plano Geral de Contas*) is that the fiscal year corresponds to the calendar year, i.e. 01 January to 31 December. It is possible, however, to apply for authorization from the Ministry of Finance for the company to have a fiscal year that does not coincide with the calendar year. This is only worth doing for a good reason (e.g. the company’s parent must consolidate the company’s accounts with its own, and has a fiscal year that does not coincide with the calendar year).

3.1.2.2 Submission

The *estatutos* can be drawn up by the quotaholders themselves or by a lawyer. Model *estatutos*, to use as a point of departure for drafting, are attached as Annex 2. The model is annotated to explain what the quotaholders are supposed to insert and records a few points to be aware of as they prepare their draft. Should the quotaholders wish in any significant way to deviate from the terms of the model, we strongly recommend that they consult a lawyer, in order to understand the legal consequences of those choices.

The draft *estatutos* are then presented to the Notary. The draft should be accompanied by a number of other documents the Notary requires. These are:

¹⁴ See generally Lei das Sociedades por Quotas 11/04/1901 Article 36.

¹⁵ There are, however, certain classes of decisions that the law insists be taken pursuant to a meeting, such as decisions to amend the *estatutos* or to dissolve the company, among others.

- The original *certidão de registo negativo* – and please remember, it is only valid for 90 days;
- The receipt from the bank (often referred to as the *bordereau*) for the amount deposited in the Company’s account, and that will be accounted as capital (*capital social*) contributed by the quotaholders; A sample letter requesting opening a bank account is included at Annex 3.
- Identity documents for each quotaholder (the documents required are different for natural persons (i.e. individuals) and legal persons (e.g. companies) - the differences are discussed in FAQs below);
- In the case of legal persons, appropriate resolutions of the corporate bodies empowered to make decisions in the matter of the creation of and participation in the capital of a subsidiary (again, some further notes on this are below); and
- For either natural persons or legal persons who cannot be present at the signing of the *escritura pública*, appropriate powers of attorney to persons in Mozambique who can sign on their behalf and otherwise represent them for related purposes.

The question of powers of attorney is discussed below, in section 3.1.2.3.

The documents requested during this process are required in order to permit the Notary to judge whether (i) the transaction proposed is legal, and (ii) all those named as quotaholders truly wish to participate in the company. If, for example, the Notary finds a clause of the *estatutos* that contravenes the corporate law, he will invite the quotaholders to amend it. And if proper powers have not been granted to a representative, then the Notary will properly refuse to give effect to a public deed (i.e. the incorporation), because it does not appear to be in conformity with the will of the person named. Thus, the formal procedures of the public deed operate fundamentally to protect parties from making technical mistakes with respect to important commitments.

Once the Notary has verified that the documents submitted comply with legal requirements, he will provide a quote for the cost of incorporation. This value is calculated based on a percentage of the social capital as stated in the Deed.¹⁶ Payment may be made in cash.¹⁷ A receipt is provided.

Following payment the *estatutos* are hand transcribed into the Notarial Ledger. This process can take between three days and one month. In some cases Notarial offices are now equipped with computers, meaning that the process is becoming quicker.¹⁸

¹⁶ The exact methods of calculation of the cost of a public deed are somewhat obscure however we provide the following rule as described by Ministerial Diplomas n°. 150/2001 of 3 October and n°. 19/98. Companies with a *capital social* up to 5 billion meticaís will be charged two by one thousand, the formula being the following: 2/1000 x social capital. Above 5 billion meticaís the formula is 0.1 x social capital. Additionally, 100 thousand meticaís are charged for each public deed with only one act and 5 thousand meticaís are charged for each page.

¹⁷ In some provinces payment may be made by cheque or deposit into a bank account. Check with the Notary – but always get a receipt.

¹⁸ It is now legally permissible to accomplish the public deed by signing a version of the *estatutos* on plain paper, rather than the version inscribed in the Notarial Ledger, but doing so is still the exception.

Once the document is ready, the quotaholders or their representatives (those who have powers of attorney) are invited to make an appointment and to go in person to the Notary's office to sign the *estatutos*. The Notary reads the document aloud to the quotaholders. This is done to ensure that each of the quotaholders is aware of what she is signing and to give the opportunity to correct any errors in the transcription. If during this reading there is any uncertainty about any aspect of what has been written any of those present may, and in fact should, ask to check the document. Corrections at a later date can be costly and time-consuming. When signing the documents the Notary may ask to check the identity of those present against the copies submitted with the original *estatutos*, so you should take personal identification with you.

When all the quotaholders have signed the *estatutos* the Notary produces a certificate, which is in fact a photocopy of the signed *estatutos* along with the supporting documentation such as the *Certidão de Registo Negativo* and the powers of attorney of those who signed. The fees paid for the *estatutos* include a number of notarized copies (in Beira, eight) of the certificate which will be needed at other stages of the registration process. At the same time the Notary also prepares a type-written *extracto* or summary of the *estatutos* which is needed for publication in the *Boletim da Republica*. Preparing these documents can take some time, on occasion as much as a month.

It is important to ensure that at least one notarized copy of the certificate of the *estatutos* remains at the company headquarters at all times. This document is used in many of the other processes you will need to complete and obtaining new copies can be a time consuming process.

At this stage it is possible to apply to the Commercial Registry for Provisional Registration (see b. Commercial Registration below).

We have had the misfortune to see the consequences in a number of cases where investors who do not speak Portuguese have signed up to *estatutos* that they either did not read or the implications of which they did not fully understand. If Portuguese is not your first language, we recommend that you have the articles of association reputedly translated and seek professional counsel in their regard.

3.1.2.3 Powers of Attorney (*Procuração*)

In this section we discuss two kinds of power of attorney: the first to carry out the procedures necessary to register a company, and the second to empower a manager to run the company on a day-to-day basis.

If a quotaholder is not available to be present at the public deed of incorporation, he can and must give a *procuração* for someone he trusts to represent him for the purpose.

A *procuração* is usually drawn up for a limited purpose as appropriate to the context. In the case of company incorporation and registration, a *procuração* would ordinarily state that the proxy has the right to sign a public deed, request the commercial registration of the Company, and sign documents and do other related acts required for those purposes. You can have a *procuração* drawn up by a lawyer or by the Notary. The signature however must always be verified by a Notary. It is critically important to understand what powers you are conceding through a *procuração*, and to craft the limits of those powers appropriately.

Individual quotaholders who do not live in Mozambique can draw up and sign a *procuração* at a Mozambican Embassy or Consulate. Some embassies and consulates have been known to request notarized copies of the proxy's identity documents, and though there is no basis in law for this, it is often best to be prepared.

Legal persons may also draw up and sign a *procuração* at a Mozambican Embassy or Consulate. In this case the same documents that are needed for the *estatutos* must first be presented at the embassy for the purposes of verifying that the legal person has taken a decision to appoint the proxy, and to invest in Mozambique. See 3.1.2.2 above in respect of these documents, which must also be officially translated if they are in a language other than Portuguese. If the rules governing the corporate body require that a majority of the board sign official acts, then these board members will need to visit the Mozambican Embassy or Consulate to sign the *procuração*.

It is usually best to make and keep an authenticated copy of the *procuração*, especially in the case of a *procuração* from a legal person, because replacing it if it happens to be misplaced can be a lengthy process. As you will see below, the proxy will need to show the *procuração* at a number of stages during the registration process.

Another occasion that often calls for a *procuração* is the appointment of the manager of the company. Sometimes the manager (or managing director, as the officer is sometimes called) is explicitly appointed as such, by name, in the *estatutos*. Even in these cases, however, the appointment is usually temporary, and is meant to be effective only until the first *Assembleia Geral* is held. Once it is, the newly appointed manager will need a *procuração* from the quotaholders giving him the authority to undertake certain specific and general acts. The *procuração* is the basis on which third parties can confidently deal with the company, knowing that the person purporting to represent it does in fact represent it and is acting within the limits of his powers. The specific content of a *procuração* to a company manager is likely to include the power to manage company bank accounts, transact business with others and file periodic tax returns and other legally required documents, among others.

A model *procuração* is attached hereto as Annex 4. Note, however, that it will, in all cases need to be adapted to the specific requirements of the quotaholder signing it

3.1.3 Government Gazette (*Boletim da República* or BR)

Following signing of the *estatutos* the Notary will provide a type-written excerpts thereof (the *extracto*) which you will need to send to Maputo for publication in the *Boletim da República*. The fee paid for this publication is calculated based on the number of pages used and the *capital social* of the company. Both an invoice and a receipt are given.

Printing in the BR can take between one and three months though longer delays have been recorded. Once the BR containing your *estatutos* has been published you will need to buy at least one copy.

For businesses in Beira, we recommend that you take a number of copies of the relevant pages of the BR (front cover plus pages containing the *estatutos*) and authenticate them. Copies of the BR are needed in many of the stages of registration as well as in day-to-day corporate life.

3.2 COMMERCIAL REGISTRATION

The theoretical purpose of commercial registration is to give broad publicity to the individuals' and companies' legal ability to transact commercial business, as well as to certain legal facts connected with commercial life.¹⁹ The fact that a legal person – say, a *limitada* – has come into existence, is the subject of commercial registration. But so too are other important events in the life of a company, such as capital increases, the appointment and removal of corporate officers, sales and transfer of quotas and certain judicial decisions in respect of the company.²⁰

If incorporation is analogous to birth, initial commercial registration is analogous to registration of that birth with the public authorities.

3.2.1 Provisional Registration²¹ (*regísto provisório*)

Once you have the certificate of the *estatutos* from the Notary, you can apply to the Commercial Registry for *regísto provisório*. Along with the receipt received from paying for the publication of the *estatutos* in the *BR*, getting its *regísto provisório* allows the company to proceed with a number of other important processes while waiting for the *BR* to be published.

A model of the request for *regísto provisório* is attached hereto as Annex 5. The request is signed by the quotaholders or their proxy and the signature is authenticated by the Notary. The request is presented along with one of the copies of the certificate provided by the Notary. While the *Conservatória de Regísto*s may also request stamps, the provision of physical stamps for use on documents has been revoked, as mentioned above at 3.1.1, footnote 3. However, the provision of a stamp tax is still in effect, regulated now by the new Stamp Tax Code, Decree n.º 6/2004 of 1 April. This can sometimes be paid at the *Conservatória de Regísto*s, and otherwise at the local offices of the Ministry of Finance²². Costs for *regísto provisório* vary depending on the social capital of the company.²³ A receipt is given. *Regísto provisório* may take between three days and three weeks and results in the issuing of a certificate.

As the name suggests, *Regísto provisório* is only provisional. It exists because of a timing problem. Legally, a company is obliged to request commercial registration within 90 days of its public deed of incorporation.²⁴ To get final (i.e. definitive) registration, a company must present, among other documents, a copy of its *estatutos* as published in the *BR*²⁵. Since publication ordinarily takes longer than 90 days, a company is legally obliged to apply for *Regísto provisório* as a stop gap until publication in the *BR*²⁶. Proof of *Regísto provisório* in conjunction with proof of payment to the *BR* permits you to continue with the registration process.

¹⁹ See Decree-Law n.º 42.644 of 14 November 1959, Article 1.

²⁰ *Ibid*, Articles 3 and 5.

²¹ Decree no. 42-654 of 14 November 1959, Articles 32 and 33.

²² Decree n.º 6/2004 of 1 April, Article 1, line a).

²³ Charges also tend to vary between provinces.

²⁴ Decree-Law n.º 42.644 of 14 November 1959, Article 13

²⁵ Decree n.º 42.654 of 14 November 1959, Article 47, paragraph 2.

²⁶ Nevertheless, companies increasingly choose to wait for publication in the *BR*, and apply only for Final Registration

Following publication of the *BR* containing the *estatutos*, you must file a request to convert the *registo* from *provisório* to *definitivo*.²⁷

3.2.2 Final Commercial Registration (*registo definitivo*)

Registo definitivo is carried out at the *Conservatório de Registos*. Registration is done by means of a request letter accompanied by:²⁸

- Notarized certificate of *estatutos*
- Notarized copy of *BR* (title page and pages containing the *estatutos*)
- Notarized copy of the *Registo provisório* (if it was made)
- A payment calculated as above for *Registo provisório*

The *registo provisório* and the *registo definitivo* are subject to the payment of a fee. The method of calculation is the same as that described above on page 13, footnote 17. Therefore, for companies with *capital social* of up to 5 billion meticaís, for each registration a fee of $2/1000 \times \textit{capital social}$ is charged. Above 5 billion meticaís that fee becomes $0.1/1000 \times \textit{capital social}$.²⁹

The process for preparing a request letter for *registo definitivo* is the same as that for *registo provisório*. In Beira the signature on the letter must be notarized.

The process is completed by issuance of a certificate of commercial registration³⁰. This may take up to one month to issue.

The company is now incorporated and definitively commercially registered. It cannot, however begin to trade until it has secured the issuance of an Operating License from the relevant ministry for the sector in which it is going to operate. (See below Chapter 4.)

3.3 FAQs

Must I have a Mozambican Shareholder?

There is no legal requirement that companies have Mozambican shareholders. In certain fields, however, notably construction, firms must be majority-owned by Mozambicans in order to be eligible to bid on certain classes of public procurement.

Can I apply for my DIRE and start operating now?

No, Commercial Registration creates a “dormant” company. This company must be “activated” through Commercial or Industrial Licensing (see below). It is only possible to trade and also to obtain residence documents with a fully operational company.

²⁷ *ibid* Article 57. The law does not mention the validity for the *registo provisório*, however, according to a government site, www.utrel.gov.mz, consulted on 24 January, 2005, the same is valid for a period of six months, during which time the *estatutos* may be published in the *BR*.

²⁸ *ibid* Articles 27, 46 & 47

²⁹ Ministerial Diploma n°. 150/2001, Article 1, line b).

³⁰ *ibid* Article 42

I made a payment but I was not given a receipt. Is this OK?

No, in the case of any payment to any government department you have the right to receive, and in fact should request a receipt. In practice, in the case of the Notary, for small amounts such as the cost of notarizing signatures it is common not to receive a receipt. But most departments of government that you deal with will have a system of “urgency” payments for documents needed in a hurry, and receipts are also given for these. The law requires that each government department have a bank account and payments may be made directly into that account³¹. Where possible it is preferable to use this system rather than to pay cash.

I have a lot of receipts from the Registration process. What should I do with them?

Keep them. The costs of registration can and should be expensed in the company’s accounts.

What is the difference between the Notary, the Government Gazette and the Commercial Registry and why is it necessary to register with all three?

As suggested above, each has a distinct function:

- The Notary ensures that the company is constituted correctly and legally.
- The Commercial Registry ensure that key details of and events in the life of the company are recorded and available for public consultation.
- The BR is the official government publication where all official acts are published and thereby given both the force of law and broad publicity.

While it is theoretically possible, even desirable, that the three functions be carried out by a single agency, in Mozambican law the functions are spread among distinct agencies. The Technical Unit for Legal Reform (the executive arm of an inter-ministerial committee and responsible for legal reform in Mozambique) is considering changes that will, at the least, streamline the process and cause its different elements to be carried out in a single physical space.

With what document does a quotaholder establish her identity?

If she is a natural person, a *cópia autenticada* (authenticated copy) of that quotaholder’s passport or other identification document, containing a photograph, will be acceptable. Only copies that have been authenticated by a Notary in Mozambique or at a Mozambican consulate will be accepted. If the quotaholder is a legal person, a *cópia autenticada* (authenticated copy) of that quotaholder’s certificate of incorporation (or analogous document) will be accepted. Sometimes, a Notary will also insist on seeing the operating or trading license of a legal person.

While authenticated copies of passports in foreign languages are readily accepted by Mozambican Notaries, a certificate of incorporation or operating license in a foreign language, of which English is one, will almost always need to be translated and certified

³¹ Decree 30/01 of 15th October Article 57

by an officially recognized translator. Both the original and translated documents are submitted to the Notary.

What should an appropriate resolution of the corporate body empowered to make decisions in the matter of the creation of and participation in the capital of a subsidiary look like?

Well, by “appropriate” we mean, in the first place, that it should have due effect under the law of the jurisdiction where the quotaholder itself is incorporated and the articles of association of that quotaholder. For instance, if that place is South Africa, then the resolution should take the form it ordinarily takes under South African law and practice; and if it takes the majority of the board of directors of that quotaholder to make investment decisions, then the resolution ought to be signed by a majority of the directors. The signatures of those directors must be recognized by a Notary – either in Mozambique, if the directors visit Mozambique, or in their home countries. A second measure of “appropriateness” is that the resolution contains the basic information that the Mozambican Notary would like to see, including a clear decision to invest a certain amount, the percentage of the capital to which that amount corresponds, and the name of the company in which the investment will be made.

3.4 CHECKLISTS & FLOW CHARTS

Name Certificate (*Certidão Negativa*)

- Letter of request
- Notarised signature
- Payment

You will receive:

- A certificate valid for 90 days

Public Deed of Incorporation (*estatutos*)

- Company articles of association prepared by lawyer, notary, or company quotaholders
- Evidence of bank deposit of fraction of *capital social* (not always needed in Beira)
- Corporate resolutions (if needed)
- Powers of attorney (if needed)
- Payment to the Notary.

You will receive:

- Copies of the certificate of the *estatutos*
- 1 type written *extracto*

Government Gazette

- Letter of Request
- *Extracto*
- Payment

- Send to Maputo

You will receive:

- Copy of published BR (the fee paid for publication usually includes 1 free copy of the relevant BR)

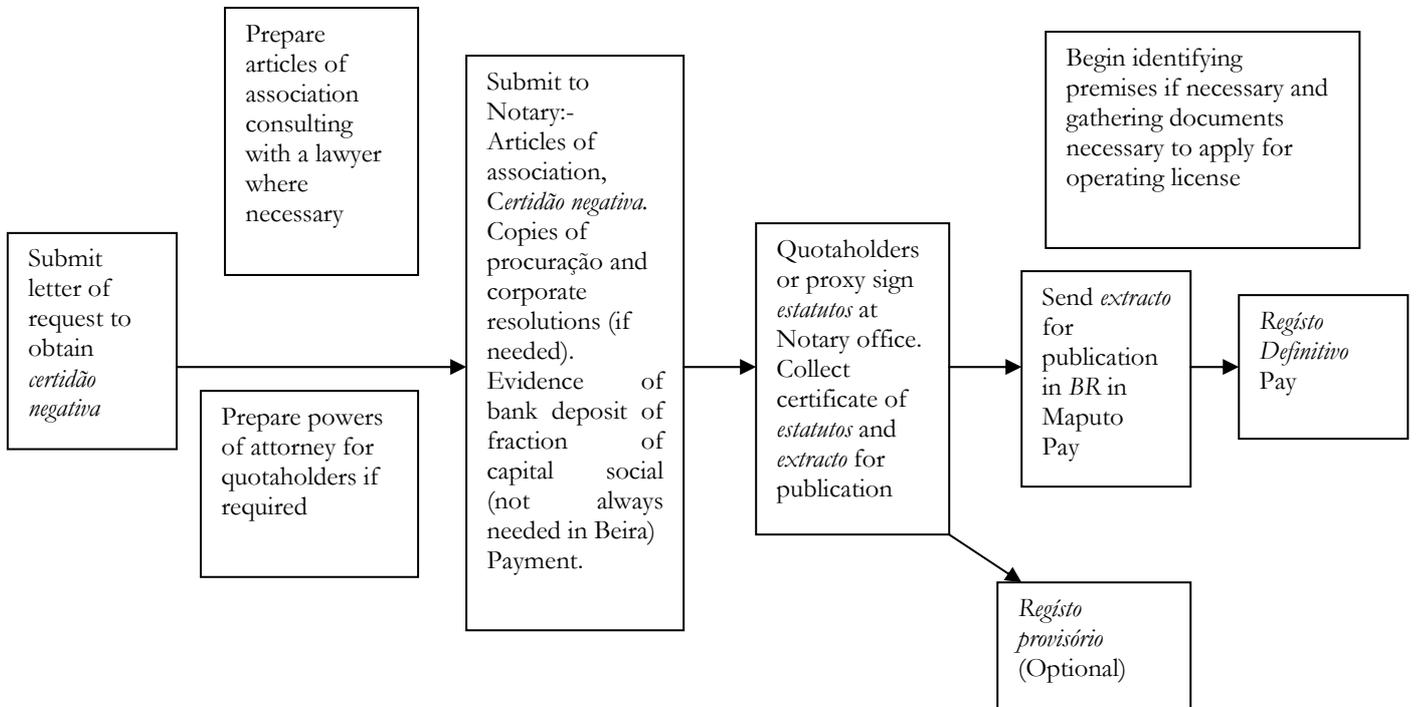
Registo Provisório or Definitivo

- Letter of request
- Notarised signature
- Notarised copy of BR (*registo definitivo* only)
- Notarised certificate of *estatutos*
- Payment

You will receive:

- A certificate of either provisional or definitive registration

Flow Chart for Incorporation and Registration



4. COMMERCIAL AND INDUSTRIAL OPERATING LICENSES³² (*ALVARÁ*)

The regulations governing the application for operating licenses for both the industrial and commercial sectors have been revised recently. As a result, while the information below reflects current legislation, it does not reflect practical experience with the application of that legislation. The few practical observations below are based on experience gleaned under the previously prevailing decrees. We would hope to update this booklet with the benefit of additional practical experience, and would welcome comments and inputs from anyone who has undertaken licensing processes under the new legislation.

4.1 COMMERCIAL LICENSING

The rules governing commercial licensing provide for three distinct categories of activities:

- activities that can be licensed at the district level (i.e. hierarchically the lowest level of relevant government authority);
- activities that can be licensed at the provincial level; and
- activities that must be licensed at the national level (i.e. in Maputo, through the National Directorate of Internal Commerce).

As a basic rule of thumb, all operations can be licensed provincially unless they involve the opening of a branch office of a foreign company; branch offices are registered at the national level. If you have followed the process above for incorporation of a *limitada*, this will not apply to you, because a *limitada* is, by definition, a national company.

Under previously prevailing legislation, an application for a commercial license associated with a request for an import-export permit was reviewed at the national level. Under the new legislation, it seems, such applications may be analyzed and both license and permit issued at the provincial level. For more information on import and export permits, see 5b, below.

Small-scale operations in rural areas (such as bars and hawking, among others) can be licensed by district authorities or, in a municipality, by the municipal authorities.

Because the great majority of limited liability quota companies are licensed at the provincial level, we will discuss commercial licensing only at that level.

In order to obtain a commercial license a company must have first completed the incorporation process as detailed above. After all, if it has not been incorporated, it does not exist for most legal purposes. The company must also have premises adequate for the type of work it plans to undertake.

³² Industrial Licensing Regulation 39/03 of 26th November and Commercial Licensing Regulation Decree 49/2004 of 17 November

4.1.1 Application for a Commercial License

The request for issuance of a license is addressed to the Provincial Governor and submitted to the relevant Provincial Directorate of Industry and Commerce. The request letter must contain the following information:

- Company name
- Company headquarters (as stated in the *estatutos*, the city or district where the company is based)
- Type of commercial activity to be undertaken – this includes categorization of the company according to classification number for economic activity (or CAE; this is Mozambique’s version of standard industrial classification, or SIC codes),³³ and the classification of goods or services being sold by the company,³⁴ and
- The address of the premises from which the company will operate.

The following must be attached to the request:

- A simple plan of the premises.
- Copy of the *estatutos* and/or *BR* and *registo definitivo*³⁵.

One point in the new legislation is unclear. The rules require the applicant to submit proof of registration with the Ministry of Finance, in the form of application for a *NUIT* (i.e. an individual company tax number). However, it has been our experience to date that one cannot obtain a *NUIT* without first having an operating license.³⁶ Another document that is often requested at this stage is proof of the right to occupy the company’s business premises. This can take the form of a rental agreement or property title.

On submission of the request for licensing the applicant pays a fee determined according to a published schedule. The fee will depend on the type of activity and its geographical location. We attach the table at Annex 8. In the case of CHAEM an additional and separate, but always receipted payment is made for the inspection.³⁷ These fees include transport and fees for the inspectors. No further payment should be made. You are entitled to get, and should request, a receipt for each payment.

The Provincial Governor is required to decide on the application within 15 days of it being submitted to the Provincial Directorate³⁸. The application is often provisionally approved subject to the inspection to ensure that the premises are adequate for the proposed activity (e.g., that you are not planning to run a wholesale operation from your home).

In a case where an application is rejected a written explanation is provided.

³³ Published in Decree n.º 58/99 of 08 of September

³⁴ We have provided the annexes of classes as an annex to this document. Due to uncertainty as to exactly how this system will operate we recommend that you seek advice from the Provincial Directorate for the area where your company is based or seek legal counsel.

³⁵ The legislation requires “proof of legal existence”. In practice this can result in requests for any or all of the documents mentioned here

³⁶ This “Catch-22” seems limited, for the time being, to Sofala Province. In the City of Maputo, an application for a *NUIT* will be accepted before issuance of an operating license.

³⁷ In Sofala Province. In Maputo, the fee associated with CHAEM’s role in the *vistoria* is included in the single fee paid to the Department of Industry and Commerce of the City of Maputo.

³⁸ Decree 49/2004 of 17th November Article 10 Line 1

4.1.2 Inspections (*Vistoria*)

Application for inspection is made by means of a letter of request and payment of the necessary fees. A form of the letter requesting an inspection is appended at Annex 7.

The inspection team is composed of representatives of the following institutions:

- the licensing body (in this case, the Provincial Directorate of Industry and Commerce),
- the local administrative authority (district or municipal),
- the local health body (CHAEM),
- the fire service, and
- other agencies as necessary and appropriate .

While it is the responsibility of the Provincial Directorate of Industry and Commerce to request the presence of other departments at the inspection, in practice the company is often required to deliver the letters informing other members of the team of the date of the inspection.

Companies are also often requested to provide transport for the members of the inspection team. Once again, this is not a legal requirement but doing so is the most effective way of ensuring that your inspection happens at the designated time and runs smoothly.

The law makes no clear provision for what each of the inspectors can ask to see at an inspection. In our experience companies are often requested to produce documents that they would not be able to apply for without first having an operating license, such as employment contracts for example. Some of these issues are dealt with below in FAQs.

The inspection must take place within 15 days of receipt of the request.

4.1.3 Issuance of the *Alvará*

Following or even during the inspection an Inspection Report (*auto de vistoria*) is prepared and signed by those who attended the inspection³⁹. A copy of this report is given to the company, and can be requested at any future inspections of the premises.

A second copy of the *auto de vistoria* is used by the Provincial Directorate of Commerce and Industry to complete the process of issuing the commercial license (i.e. the *alvará*).

This should take no more than 15 days.

4.2 INDUSTRIAL LICENSING⁴⁰

Industrial licensing has also recently undergone a legislative change.

The rules governing industrial licensing provide for three distinct categories of license as well as a fourth category that requires only registration. Three criteria are used in order to categorize a company: value of investment, KvA usage and number of workers.

³⁹ Decree 49/2004 of 17 November Article 13, Article 15 line b

⁴⁰ Decree 39/03 of 26 November

The categories and the corresponding criteria are set forth below:⁴¹

Category	Initial investment (USD)	Potential installed or to be installed (KvA)	No of workers
Large scale	10,000,000 or over	1,000 or over	250 or over
Medium scale	2,500,000 or over	500 or over	125 or over
Small scale	25,000 or over	10 or over	25 or over
Micro scale	Less than 25,000	Less than 10	Less than 25

To be classified in any given category, a company must fit two of the three criteria for that category. For example a company investing 2,500,100 US dollars, and employing 126 workers and drawing 100 KvA would be considered medium-scale, while the same company with only 124 workers would be considered small-scale⁴²

Small-scale industry is licensed at provincial level while medium- and large-scale industry are licensed at the national level, by Ministry of Industry and Commerce in Maputo. The law allows the Minister to delegate licensing of medium-scale industry to Provincial Governors, but it not yet clear whether than discretion to delegate will be used. Micro industry is not subject to the industrial licensing process; it is only required to register before starting to trade.

4.2.1 Application for the *Alvará*⁴³

The application is made by way of a letter addressed to either the Minister or the Provincial Director of Industry and Commerce. The letter must include the following:

- Name and details of representative, and address of company headquarters
- Copy of the *estatutos* and/or *BR* and/or *registo definitivo*⁴⁴
- Address of planned factory
- Proof of ownership, lease agreement or land usage title
- Project plan
- Notarised signature of the company's authorized representative.

The project plan is submitted on a special form and must include⁴⁵:

- A topographical plan including the location of buildings or proposed buildings, access roads, other buildings nearby, public roads and watercourses
- A plan of the industrial premises including offices, warehouses, workshops, bathrooms, eating areas, drains and communications as well as a complete plan of the industrial installation including machinery and equipment, safety equipment etc.
- A written project plan including process diagrams, information on raw materials, production capacity, machines and their specifications, number and sex of workers to be employed, total electrical potential to be installed, security, first aid

⁴¹ *ibid.* Article 3 Line 1

⁴² *ibid.* Line 3

⁴³ *Ibid.*, Article 10.

⁴⁴ The legislation requires “proof of legal existence”. In practice this can result in requests for any or all of the documents mentioned here

⁴⁵ Decree 39/03 of 26 November, Article 11.

and safety measures, water supply, bathroom toilet and shower provisions, drainage, effluent treatment and initial investment.

- Environmental impact study approved by the Ministry for the Coordination of Environmental Action (MICOA) for those activities listed in the annex to Decree n.º 45/2004 of 29 September or an environmental exemption certificate
- If construction is necessary as part of the project, copies of the construction license
- In the case of industries within city or town limits, approval from the city or town council; and⁴⁶
- Rental contract or proof of ownership

A decision on the application should be taken within eight days and the company should be notified of this decision within a further three days⁴⁷. This article is however apparently in tension with Article 15 which allows a period of 30 days in order for the relevant authorities to study the project submitted and secure opinions from CHAEM, the fire department and, where relevant, the municipal authorities. If the project plan is approved then the company can proceed. If the project plan is rejected a written explanation will be provided. SAL and ACIS have requested clarification on the apparent inconsistencies in the legislation, and anticipate being able to clarify this point in future editions.

Following approval the company has 180 days to begin to install or construct the factory.⁴⁸ Once the installation or construction is complete the company must make a written request for an inspection before operations can begin.⁴⁹

During the waiting period while the project plan is being evaluated, or after it has been approved and installation or construction is underway, the company can request a declaration from the National Directorate of Industry or Provincial Industry Department confirming the status of the project and enabling the company to proceed with other administrative processes.⁵⁰

At this stage it is not necessary to pay any fees.

4.2.2 Inspections (*Vistoria*)

As is the case for a commercial *alvará* an inspection must be requested in writing (See Annex 7). The inspection should take place within six days of receipt of the request.⁵¹ Within eight days after the inspection a report (*auto de vistoria*) signed by two thirds of the inspectors must be issued⁵².

⁴⁶ Ibid, Article 4.

⁴⁷ Ibid, Article 14

⁴⁸ ibid Article 17 Line 2

⁴⁹ ibid. Line 3

⁵⁰ ibid Article 11 Line 4. As this legislation is relatively new we do not yet have the experience to say whether or not such a declaration will be accepted by other departments and therefore be effective in enabling the company to undertake other processes

⁵¹ ibid. Article 18 Line 3

⁵² ibid. Article 18 Line 4

If minor problems are found during the inspection conditional approval may be given for the start of operation. The problem must be fixed in the time limit given on the inspection report, and a follow-up inspection carried out.⁵³

Payments for inspections and the issuance of *alvarás* are made according to the table at Annex 9.⁵⁴ These fees include all necessary payments.

Payments are only made following a favorable decision and are made at the nearest representative office of the Ministry of Finance (the *Repartição das Finanças*) using a form known as *Modelo B*.

As is the case with commercial licensing, companies are often requested to provide transport for the inspection team to site. It is worth noting that the fee table for industrial licensing includes a per kilometer rate to cover transport for inspectors.

4.2.3 Issuance of the *alvará*⁵⁵

Following the issuance of an unqualified, or even a mildly qualified inspection report, an *alvará* is issued. Operations must begin within ninety days of the issuance of this license.

4.2.4 Microscale industry⁵⁶

Microscale industries are not subject to industrial licensing but rather to registration using a special form available from the Provincial and National Industry and Commerce representations.⁵⁷ The company may begin operations immediately after it registers; no inspection is required.

The micro-scale food industry, however, is subject to a number of industry specific requirements which are not within the scope of this booklet. Registration of micro scale food industry may be undertaken at provincial, district or municipal level depending on the location of the installation.

4.3 FAQs

I have my Operating License. Can I start trading now?

Basically, yes. However there are a number of other requirements to comply with, including those of the Finance and Labor Departments (see below 6-9).

During my inspection the inspectors requested payment for travel to the site. Is this OK?

No. All costs to cover the inspection are paid to the local office of the Ministry of Finance or directly into the bank account or to the finance section of the relevant departments (Industry and Commerce and *CHAEM*). Receipts are given. No payments are made directly to inspectors.

What are the inspectors looking for?

⁵³ *ibid.* Article 19

⁵⁴ *ibid.* Technical Annex III

⁵⁵ Decree 39/03 of 26 November Article 27

⁵⁶ *ibid.* Article 28

⁵⁷ *ibid.* Technical Annex II

As mentioned above there is no clear definition in the law of what the inspectors can ask to see. As a general guideline premises should have:

- A separate entrance (if the office is in a building housing other companies)
- Separate toilet facilities for staff and clients, and where possible for male and female
- Adequate ventilation and light
- Fire extinguishers and/or sand buckets.

For example the decree governing industrial licensing states that the premises must satisfy the technical/functional requirements of that particular industry as well as the hygiene, convenience and safety needs of the workers.⁵⁸ The National Directorate of Industry has recently published an “Industrial Guide” which contains comprehensive, recommendations for industrial premises. The Industrial Guide covers many aspects of health and safety, but bear in mind this is a guide rather than a piece of legislation.

Inspectors may also ask to see the company’s *horário de trabalho* and employment contracts.

I have been told that the plan of my premises must be done on special map paper/must be an architects drawing/must be of a certain size or shape/must include a detailed written description. Is this true?

The law does not define what type of plan is required stating only that a “drawing” of the premises must be provided. In practice this plan can be a simple sketch, drawn by hand or on a computer, and should include the purpose of each room i.e. office, toilet etc. as well as measurements. This adequately covers the requirement of providing a description. There is no requirement to submit architect’s drawings or plans of a particular size or on a particular type of paper.

I have been told that I have to provide proof that the person/company I am renting premises from has the right to rent those premises. Is this correct?

The law has no such requirement. In practice, however, it is always as well to request such documents for your own peace of mind when renting a property.

I have a complaint about the way my process was handled/my inspection was carried out. What can I do?

Each government department has a Complaints Book (*Livro de Reclamações*) for the general public. If you have a complaint, visit the department in question and request the book. You should record your complaint in as much detail as possible (e.g., names, times, locations).

4.4 CHECKLIST AND FLOW CHARTS

4.4.1 Commercial Licensing

Application for an *alvará*

⁵⁸ *ibid.* Articles 18 & 20

- Letter of request addressed to Minister or Provincial Governor
- A plan of the premises to be licensed.
- Notarised copy of *estatutos* and/or *BR* and/or *certidão definitiva*
- Lease Agreement or proof of ownership

Application for Inspection

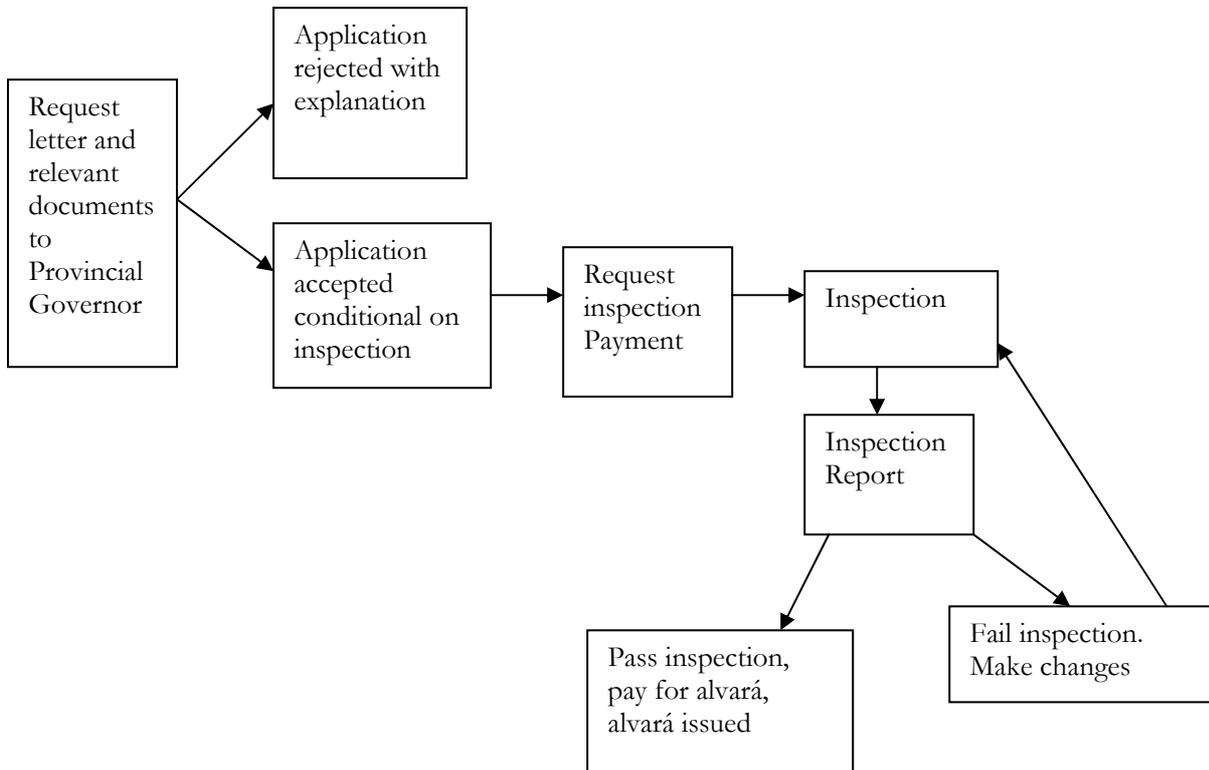
- Request letter
- Copy of notification of approval of application signed by Minister or Governor
- Payment

4.4.2 Industrial Licensing

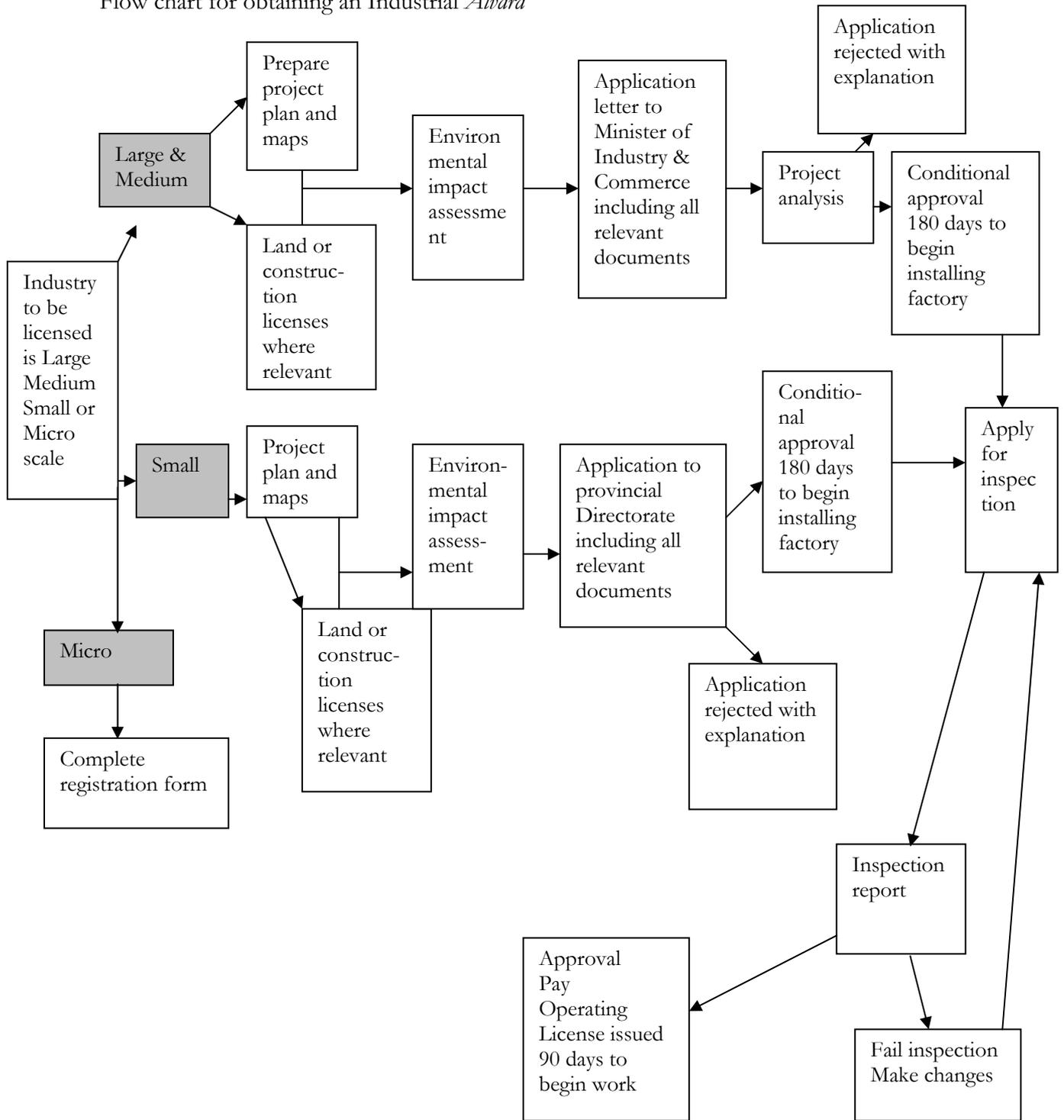
Application for an *alvará*

- Letter of request addressed to Minister of Governor
- Topographical plan of the area
- Plan of infrastructure
- Written description containing details of:
 - Processes and factory diagrams
 - Raw materials including specifications and quantities
 - Production capacity
 - Machines and equipment including specifications
 - No. and sex of those to be employed
 - Electrical potential to be used or installed
 - Worker security
 - Security, first aid and social installations
 - Water supply
 - No. of washroom facilities
 - Drainage network
 - Effluent treatment plan
 - Initial investment
- Environmental impact study (if required)
- Lease agreement or land usage title
- Construction license where relevant
- Payment

Flow chart for obtaining a Commercial *Alvará*



Flow chart for obtaining an Industrial *Alvará*



5. OTHER LICENSES AND AUTHORIZATIONS

Below is a brief summary of requirements to obtain a license or other forms of authorization in other domains relevant to starting a business in Mozambique. This should by no means be considered an exhaustive treatment of the subject. For further details consult other titles in the same series, or seek qualified legal counsel.

5.1 LAND

In Mozambique all land is owned by the State. In order to acquire land directly from the State it is therefore necessary to apply for a land usage title or DUAT (*Direito de Uso e Aproveitamento da Terra*).

The institution or official to which you direct an application for land depends on how much land you need for your business. If you need less than 1,000 hectares, you apply to the Provincial Directorate of Agriculture; between 1,000 hectares and 10,000 hectares to the Minister of Agriculture; and more than 10,000 hectares to the Council of Ministers.⁵⁹

Land within a municipal boundary is applied for to the relevant municipal council. As each municipality has its own practices in respect of municipal land allocation we have chosen not to deal with the subject here.

Application for land⁶⁰ in the name of a company requires proof that the company is incorporated (see 1 above). This does not mean, however, that you have to wait until incorporation is complete before beginning preliminary aspects of the land application process. Indeed, the sooner the preliminary processes are underway, the faster and more smoothly the process should run.

The first step towards obtaining a land title is to investigate the availability of land through the relevant Provincial Mapping and Registry Service (*Serviços Provinciais de Geografia e Cadastro* or often colloquially “*Geografia e Cadastro*”). At this early stage it is also possible to begin collecting the documentation necessary for the application, and even to make preliminary contact with the communities settled on the land in question or bordering it, to discuss terms⁶¹ prior to the community consultation. Both these steps can be taken even before incorporation.

Once the company is incorporated and the area of land to be allocated has been selected, application for title can be made. This is done by way of a form from the Provincial Directorate of Agriculture. The application includes a description of the project to be undertaken on the area applied for, as well as the results of a survey undertaken by

⁵⁹ Law 19/97 of 1 October Article 22

⁶⁰ Decree 66/98 of 8 December Chapter IV

⁶¹ Companies investing in rural areas are encouraged to undertake social programmes with the communities on or around the land they apply for. In order to decide what type of programmes to undertake it is worth looking at the Provincial Government’s Provincial Development Plan, as well as speaking to other investors in the same area or the same sector. It is worth meeting with community leaders prior to the community consultation and agreeing a clear set of social programmes (for example bridges, school roofing, employment guarantees) so that on the day of the consultation everyone is in agreement. It is important to note that non-fulfilment of what is promised as part of a community consultation is a major reason to revoke a provisional DUAT.

Geografia e Cadastro and a consultation with the community. An authorization tax is also paid.⁶²

The community consultation⁶³ is led by representatives of *Geografia e Cadastro*, and can include company representatives as well as representatives of the local (district) government. A signed minute of the community consultation must be produced. If the consultation is favorable the land is officially demarcated, (on the official maps and on the ground), a map and a written description of the area (*memória descritiva*) are produced. Provisional title is then issued and the company is invited to pay its annual land tax.

Companies with majority national quotaholding have five years in which to complete the project submitted as part of their application. Companies with majority non-national quotaholding have a period of two years to complete the project⁶⁴. On completion of the project (which can be before the end of the time period allotted) the company requests an inspection. If the inspection finds the project completed, a definitive title is issued. Definitive titles are usually issued for periods of 50 years, renewable for a further 50.⁶⁵ On issuance of notification of definitive title the company then has 90 days to pay the definitive authorization tax.⁶⁶

Provisional title is useful in order to apply for certain licenses, such as commercial or industrial *alvarás* (the title can constitute the proof of ownership interest required, for example), and construction licenses.

For more detailed information on the allocation of land please see other booklets in this series or seek legal counsel.

5.2 IMPORT & EXPORT

Both import and export licenses must be requested from the Ministry of Industry and Commerce.⁶⁷ The company making the application must have the phrase “import and export” included in the “Objectives of the Company” article of its *estatutos*.

Application for both licenses follows the same procedure, namely, submission to the Provincial Directorate of Industry and Commerce of:

- A form
- A notarized copy of the *alvará*
- A notarized copy of the registration with the Ministry of Finance (see below 6b)
- A fee
- In the case of companies with import duty exemptions, proof of such exemptions.

An import license is valid for one year from the date of issue.

⁶² Law 19/97 of 1 October Article 28

⁶³ Community consultation is a complex issue in respect of the legislation surrounding it, and is dealt with variously under Law 19/97 of 1 October Article 24, Decree 66/98 of 8 December Article 29 and specifically by Decree 15/00 of 20 June

⁶⁴ Law 19/97 of 1 October Article 25

⁶⁵ *ibid.* Article 17

⁶⁶ *ibid.* Article 42.

⁶⁷ The new commercial licensing regulations appear to delegate authority to issue these licenses to provincial industry and commerce departments

An export license is valid for the period of validity of the company's *alvará*.

For further details on export procedures please contact IPEX (the Export Promotion Institute) on www.ipex.gov.mz

5.3 ENVIRONMENT⁶⁸

Most projects of some scale require some form of environmental license. For the purposes of environmental licensing companies are divided into categories according to potential risk. Those considered to have a greater potential environmental risk (mining, forestry and so on) are automatically required to undertake a full Environmental Impact Study while others which are considered of potentially lower risk (vehicle repair, small-scale farming and so on) are exempt. Exempt activities are of course also expected to follow good environmental management practice.

In a number of cases such as land title and industrial *alvará* issuance is conditional on presenting an environmental license as part of the application.

Once again in the case of this sector, the legislation has recently changed and the impact of the changes has yet to be felt on the ground. Basically, however, the legislation allows for different scales of environmental impact evaluation depending on the type, scale and location of the project. Projects are subject to a pre-evaluation to determine what type of assessment is required. For example, a mining company will be required to undertake a full environmental impact study with public enquiry, while a company whose projected activities are deemed to have only a modest environmental impact may be required to undertake a simplified environmental impact study or none at all.

In order to undertake either a full or simplified environmental impact study the company must select a consultant from the list of licensed consultants⁶⁹ provided by the Ministry of the Environment (MICOA), and available from Provincial Directorates of Environmental Action (DPCAA). The consultant will then work with the company to guide it through the process and ensure that the legal requirements are met.

For more detailed information on environmental licensing and related legislation please see other booklets in this series or seek specialist counsel.

For all other aspects of sector-specific licensing, please consult other titles in this series or specialized counsel.

5.4 INVESTMENT PROMOTION CENTRE (CPI)

Mozambique offers a number of incentives and exemptions to both national and foreign investors. These include limited tax reductions and duty exemptions for investment in certain geographic zones or activities.

Qualifying companies wishing to benefit from the exemptions on offer are required to register their project with the government's investment promotion body, the *Centro de Promoção de Investimentos*, or CPI. The minimum investment requirements for any such

⁶⁸ Law 20/97 of 1 October and Decree 45/2004 of 29 September

⁶⁹ Decree 45/2004 of 29 September Article 21

benefits are US\$50,000 for foreign direct investment and US\$5,000 for national investment. Registration with CPI under the investment law also affords investors some statutory guarantees of the right to export both capital and profits.

Registration with CPI can and should begin even before the incorporation process is complete. Often, CPI officials will ask to see a draft of the *estatutos*, in order to confirm the corporate objectives of the company and the identity of the quotaholders.

Application to CPI is made by way of an application form and a detailed project proposal. The application must also include the following:

- ID document or passport of each individual investor in the project
- Proof of legal existence of the company (*estatutos, BR and Certidão Definitivo*)⁷⁰
- Bank references and evidence of the necessary financial capacity to undertake the project⁷¹
- Financial accounts and annual report from the most recent financial year for each investor

While it is not necessary to wait for CPI approval in order to proceed with applications for most other licenses or authorizations, companies with duty exemptions are required to provide proof of CPI approval when applying for an import license.

For further information on the CPI, visit www.cpi.co.mz.

6. ACCOUNTING AND TAX ISSUES

6.1 TAX REGISTRATION

Companies must register with the Ministry of Finance in order to obtain a *NUIT* (individual company tax number) and to operate legally. Under the IVA (value added tax) system companies may register as either category A (Normal Regime), B (Simplified Regime), or C (Exempt).

Category A companies submit monthly IVA returns using a government-licensed accountant (*técnico de contas*) and are subject to audit by the Ministry of Finance.

Category B companies submit an annual IVA return.

Category C is applicable to small national-owned companies. Category C companies do not file tax returns.

The vast majority of limited liability quota companies must register as Category A, Normal Regime. We have therefore chosen to only deal with Category A registration here.

In order to register with the Ministry of Finance the company must have a *técnico de contas*. Larger companies often employ one of more *técnicos de contas* while other companies may

⁷⁰ As suggested in the preceding paragraph, in Maputo application can be made before incorporation is complete.

⁷¹ In the case of companies with non-national investors this could include bank references and accounts from the parent company in another country. In some cases these may have to be translated into Portuguese by an officially licensed translator.

opt to use a licensed accountancy firm or a freelance *técnico de contas*. Not all accountants are *técnicos de contas*, so be sure that the person you hire is duly qualified as such.

The *técnico de contas* is ordinarily able to assist the company with the tax registration process.

6.2 START UP FOR TAX PURPOSES

The company (assisted by the *técnico de contas*, who also has to sign the form) must submit a Declaration of Start of Activity (*declaração de início de actividade*, more commonly known as *Modelo 6*) to the local office of the Ministry of Finance (*Repartição das Finanças*).⁷²

The *Modelo 6* includes the company's address, areas of activity, date when operations will begin, and projected annual turnover.

Periodic returns must be submitted from the date declared as the date when operations will begin. This date should therefore be as accurate as possible. If operations have not started by that date it is possible to request an extension on the time period or to submit "zero" returns for the months up until operations begin.

The *Modelo 6* is submitted to the *Repartição das Finanças* along with proof of legal existence of the company (*estatutos, BR, Certidão Definitivo*) as well as its license to operate (*alvará*).⁷³

Depending on the time delay in issuing of *NUIT* the Ministry of Finance can issue a provisional *NUIT* number which is valid until the final *NUIT* is available. However the issuance of the *NUIT* is not usually subject to lengthy delays and this procedure is rarely used. If in doubt consult the *Repartição das Finanças* when submitting the *Modelo 6*.

The *NUIT* is recorded on the *Modelo 6*, which is returned to the company. Once in possession of the *NUIT* the company can proceed to printing legal company stationery such as invoice and receipt books, which must by law carry the *NUIT*. Company letterheads may also carry the *NUIT* but this is not compulsory. Invoice and receipt books must be printed by a registered government printer.

The *Modelo 6* must be retained, and may be inspected for example during an audit by the Ministry of Finance.

6.3 IVA, PERSONAL (IRPS) AND COMPANY (IRPC) TAXES

IVA is set at a fixed rate of 17%. While there are a few exceptions, the great majority of companies is required to charge and to pay IVA.

Please see Annex 10 for a copy of a legally correct IVA invoice. Only legally correct invoices may be submitted for the purposes of tax deduction in the company accounts. Non-correct invoices may only be submitted as proof of expenditure.

⁷² In larger towns and cities the Ministry of Finance has a number of representative offices. The correct one for your company may depend on location and also on size (measured by turnover) of your company. The Provincial Directorate of Plan and Finance will be able to indicate the correct office for you to register with.

⁷³ The new commercial licensing regulation requires that an approved *modelo 6* be submitted as part of the *alvará* application. As mentioned above it is not clear whether this is in fact possible as to date the *alvará* has been required as part of the application for a *NUIT*

IRPS is payable monthly and is withheld at the source by employers. All those on the company payroll are required to pay tax. At the end of the Mozambican tax year (31 December) companies must also provide a statement of earnings including IRPS deductions for each employee, in order to enable employees to complete personal income tax declarations (*Modelo 10*).

Each new employee must complete an IRPS registration form (*Modelo 11*), and also request an individual tax number (*Modelo 5*) unless already in possession of one.

IRPS rates are steeply progressive, and deductions for marital status and dependents are modest. The highest tax bracket is currently 32%. IRPS is payable not only on wages but also on other forms for remuneration including, without limitation, bonuses, accommodation and personal use of company vehicles. Computer programs which automatically calculate tax and payroll values are available.

IRPC is paid at a rate of 32%, and is calculated based on profits⁷⁴. Companies have the right to write off losses against profits for five years.

At the end of the company's financial year the *técnico de contas* prepares a full set of accounts in accordance with the *Plano Geral de Contas*, the national accounting plan. The annual accounts must be approved and signed by all quotaholders, at an *Assembleia Geral*.

For more detailed information on Tax and Financial issues and related legislation please see the other booklets in this series or seek professional counsel.

7. LABOR ISSUES

Please see the booklet in this series on Labor issues for further information on the areas touched on below.

7.1 WORK CONTRACTS

Every person employed by a company must have a work contract, and the onus is on the employing entity to provide one in written form.

Contracts may be divided into fixed term or indefinite term contracts. A worker may be contracted on up to two fixed term contracts, each of which may last up to two years. After that, the employee is considered permanent.

Fixed term contracts of over six months have a thirty-day probation period. Indefinite term contracts allow for a probation period of up to ninety days. During the probation period, an employee can be dismissed without cause. After it has run, dismissal may only take place for a legally defensible reason, and with generous severance.

Companies are free to use their own model contracts or ones supplied by the Provincial Directorate of Labor. Unsurprisingly, the latter tend to be more favorable to workers. In some provinces, companies are strongly encouraged to submit their model contracts

⁷⁴ Exceptions exist for agriculture among other activities, as well as for deductions at source. Key articles are 76, 77 e 83 do Decreto 21/2002 de 30 de Julho.

to the Provincial Directorate of Labor before use, but there is no legal requirement to do so.

7.2 FOREIGN LABOR

The rules governing the employment of foreigners were also recently revised.⁷⁵ Please see the booklet on labor in this series or consult legal counsel for details of the process.

7.3 SOCIAL SECURITY (INSS)

Social security is payable by all those listed on the company payroll. It is withheld at the source at a rate of 7%, with the worker contributing 3% and the company contributing 4%. Non-national employees are also liable for social security unless they can prove that they are registered with a system in their own country.

Workers must register with the INSS and have an individual social security number. A copy of their registration card may be held by the company in their personnel file. It is the responsibility of the company to ensure that workers are registered with INSS.

New companies must also register with the INSS. This is done by means of a letter. The INSS will then issue a payment receipt book and the company must purchase forms to be completed and submitted with payment on a monthly basis.

7.4 INSURANCE (*SEGURO COLECTIVO*)

Companies are required to pay collective accident insurance for all workers.

7.5 PERSONAL TAX

Please see above 6c.

8. CITY COUNCILS

There are 33 municipalities in Mozambique, each with its municipal council. All major urban areas are now organized as municipalities. Each council has its own rules and regulations governing the collection of fees and taxes within its jurisdiction, although the variety of such fees and taxes is limited by national legislation.

Councils collect economic activity tax, rubbish tax and fire tax as well as fees for signs (on buildings and vehicles), flags, construction and many other activities.

Companies should consult the municipality in which they are based in order to ensure that all taxes and fees are paid up to date.

9. OTHER COMPANY DOCUMENTATION

Companies should take a notarised copy of all documents resulting from the registration process and retain them in a secure place.

The following must be displayed in a prominent place in the company office and can be inspected at any point by inspectors from different departments:

⁷⁵ Decree n° 57/2003 of 24 December

- *Alvará*
- *Auto de vistoria* (not required by law, but recommended)
- *Horário de Trabalho* (approved by Provincial Directorate of Labor)
- *Modelo 6*
- *Plano de Férias* (leave schedule)
- *Relação Nominal* (Ministry of Labor approved list of all workers including categories and salaries)

The company's book of meeting minutes (*livro de actas* see below) and the *CHAEM* control book (where required) must also be accessible in case of inspection.

Notarised copies of powers of attorney, passports and residence documents of any non-national staff members should also be filed.

Though the company is now legally registered and able to begin operating there are a number of further steps which need to be taken.

9.1 START-UP OBLIGATIONS

9.1.1 Work Schedule (*Horário de Trabalho*)

Two copies of a form are purchased from government stationers or the Ministry of Labor and completed detailing the weekly hours which the company will work. These hours must be in keeping with the requirements of the Labor Law. A stamp is affixed to the form and the managing director or other authorized representative of the company then signs the schedule. This is submitted along with a letter bearing a notarized signature requesting approval of the schedule. Approval takes approximately 30 days. A copy of the form is then returned to the company and must be on display at all times.

9.1.2 Declaration of start of activity

A letter must be submitted to the Provincial Directorate of Labor informing it that the company has begun operations.

9.1.3 Minute Book (*Livro de Actas*)

Each company must keep a book in which key decisions of formal meetings of the quotaholders are recorded. Before being used, this book must be tendered to the *Repartição das Finanças* and to the local court to be registered as the official minute book. The minute book then becomes a legal document. Minutes signed by all quotaholders are binding among them.

9.1.4 Invoice Books (*Livro de factura*)

Invoice and receipt books may only be printed by a registered government printer. If the company wishes to begin invoicing before receiving a final IVA number temporary invoices using the provisional number may be issued. These invoices must be re-issued once you have your final IVA number.

Once the company IVA number is available a letter is submitted to a registered government printer requesting printing of a set of invoice and receipt books.

9.1.5 Workers List (*Relação Nominal*)

This form must be filled out in four identical copies and submitted to the Provincial Directorate of Labor. The form contains details of workers salaries and categories as well as other information. Two copies are retained by the Directorate of Labor and two are returned to the company. One copy is displayed at the company's premises and a second is filed for use the following year, when it is submitted along with the one for the new year.

9.1.6 Signage

Any alterations to your work place such as the putting up of signs, flags, umbrellas, posters etc. are all subject to licensing by the municipal council. Licenses are payable for among other things:-

- Logos on vehicles
- Company signs
- Flags
- Fences.

9.1.7 Flag Tax

If your company flies flags from the office you are liable for an annual tax per flag. These licenses are available from the Municipal Council. If flags are flown they must always be accompanied by a Mozambican flag. Mozambican flags must be licensed but there is no charge.

9.1.8 Salaries

Workers are generally paid at the end of each month.

A payroll (*folha de salários*) is prepared and is signed by each worker. Each worker must be given a pay slip detailing all payments and deductions, for each wage paid.

Income tax and social security payments are withheld at the source. Income tax is paid to the Provincial Directorate of Finance by the 20th of the following month. Social Security is paid to the Social Security Department by the 10th of the following month. The pay roll is submitted to the Provincial Directorate of Labor by the 10th of each month.

9.2 PERIODIC OBLIGATIONS

There are a number of things which must be done each month, from the date which the company declares as "Start of Trading" date as declared on the *Modelo 6*. These are set forth below.

9.2.1 *Folha de salários*

Copies of the *folha de salários* signed by employees must be submitted in duplicate to the Provincial Directorate of Labor by the 10th of each month. One copy will be stamped and returned to you, and must be filed.

9.2.2 INSS payments

These must be made by the 10th of each month. Two copies of the INSS form, plus one page (in triplicate) of the INSS receipt book, (supplied when the company registers with INSS) must be submitted. The INSS forms contain workers names and individual ID numbers as found on their Contributor Card.

9.2.3 TDM

Telephone bills may be collected from the 15th of each month (either from the TDM office or by calling their customer help-line on 177) and paid by the 30th of each month.

9.2.4 IRPS

Three copies⁷⁶ of the IRPS form, which are available free from the relevant *Repartição das Finanças* must be completed and submitted along with payment by the 20th of each month.

9.2.5 IVA

Payments will be calculated by your *técnico de contas* based on the previous month's trade and must be paid to the *repartição* by the 30th of each month Payment is accompanied by a form completed in four copies.

9.2.6 Water and electricity

Utilities are also paid monthly according to bills which will be sent to you.

There are a also number of obligations which need to be carried out annually. These often only come into effect during the company's first complete year of trading, but in the case of obligations to Municipal Authorities is worth verifying this.

9.2.7 Rubbish Tax⁷⁷

Paid monthly or annually per calendar year to the Municipal Council. Be certain to keep receipts as inspections can take place.

9.2.8 Fire Tax⁷⁸

Payable to Municipal Authorities as a percentage profit. Therefore this tax is only applicable in a year in which a company declared a profit.

9.2.9 IRPS Declaration

An individual IRPS declaration must be completed each year on a *Modelo 10* form. To facilitate this companies are required to provide workers with a breakdown of net and gross salaries as well as tax deductions at the end of each fiscal year. The declaration

⁷⁶ In Beira certain of the *repartições* request 4 copies

⁷⁷ In Maputo this tax is often included within utility bills

⁷⁸ The tax is not charged in Maputo

takes into consideration the employee's marital status, salary and also any benefits such as use of house or vehicle, as well as any other sources of income.

9.2.10 Foreign Employees

Residence documents (DIRE) are renewable annually and must be submitted at least 30 days prior to expiry date. Work permissions or authorizations are renewed bi-annually and should be submitted at least 30 days prior to expiry. Allow at least six weeks for collection of necessary documentation prior to submission.

9.2.11 Leave Plan (*Plano de Férias*)

This document which details holidays for all eligible staff must be prepared in accordance with the Labor Law and displayed at the company premises from January 30th each year.

9.2.12 Workers List (*Relação Nominal*)

Four copies are prepared and submitted by 31st March along with the second copy of previous year's form.

9.2.13 Sign and Flag taxes

All municipal licenses are renewable annually in January unless otherwise specified.

9.2.14 Accounting

A number of documents must be submitted on instruction from the *técnico de contas*. These include a profit forecast and a full statement of the previous year's accounts.

9.2.15 General Assembly (*Assembleia Geral*)

This is an annual legal requirement. Quotaholders must be must be given advance notice in accordance with the rules defined in the *estatutos*. Decisions taken must be minuted in the *livro de actas* and signed by those in attendance. This meeting is usually used to sign off the year-end accounts as well as dealing with other relevant issues.

There are a number of other payments and licenses which must be paid or requested each year depending on the type of business you are in and the government department responsible for that sector. It is advisable to submit letters to sectoral departments requesting information on any special rules that apply to your area of business.

9.3 CHECKLIST

9.3.1 Start of Business (After receiving *alvará*)

Item	Department	Date
Tax (IVA & IRPS) registration	Finance	Immediate
Invoice & receipt books	Government stationers	Immediate
Social Security Registration	INSS	Immediate
Inform Labor department of start of operation	Labor	Immediate
List of workers (<i>relação nominal</i>)	Labor	Immediate

Item	Department	Date
Work schedule (<i>horário de trabalho</i>)	Labor	Immediate
Leave schedule	Labor	Immediate
Collective insurance	Insurance company	Immediate
Flag, signage taxes	Municipal council	Immediate
Copies of important company documents		Immediate
Display key documents – holiday schedule, work timetable, list of workers, operating license, inspection report, tax registration document		As soon as possible
Book of meeting minutes (<i>livro de actas</i>)	Court	As soon as possible

9.3.2 Things to do monthly

Item	Department	Date
Wage schedule (<i>folha de salários</i>)	Labor	By 10 th of month
Social security	INSS	By 10 th of month
IRPS	Finance	By 20 th of month
IVA	Finance	By last day of month
TDM, Water and electricity	Respective utility departments	By last day of month
Wages (including pay slips for each worker)		Monthly

9.3.3 Things to do annually

Item	Department	Date
Rubbish tax	Municipal council	Payable monthly or in January
Fire tax	Municipal council	Payable based on declared profits – check with individual municipal councils
Sign and flag taxes	Municipal council	By end January
IRPS declaration (Model 10)	Finance	By end February
<i>Plano de férias</i>	Labor (it is not necessary to submit this document, only to display it)	By 30 th January
<i>Relação nominal</i>	Labor	By 31 st March
Year end accounts (prepared by accountant)	Finance	By 31st March
Residence permits (foreign workers)	Immigration	Renew annually, submit at least 30 days before expiry

Item	Department	Date
		date
Work authorizations and permissions (foreign workers)	INEFP (Labor)	Renewable bi-annually
Workers individual income tax declarations		End December or early January

10. ANNEXES

ANNEX 10.1: CERTIDÃO NEGATIVA

The following is the type of request letter or *requerimento* to be submitted when requesting a *certidão negativa*

EXMO. SENHOR CONSERVADOR
CONSERVATÓRIA DO REGISTO COMERCIAL DE MAPUTO⁷⁹
MAPUTO⁸⁰

_____ ⁸¹ casado/solteiro⁸², titular do DIRE/Passaporte/BI
nº _____ ⁸³, emitido pelos _____ ⁸⁴, aos _____ ⁸⁵, vem
mui respeitosamente requerer à V. Exia. se digne mandar certificar que não se encontra
matriculada nessa Conservatória alguma associação com a denominação de
_____ ⁸⁶, Limitada; ou outra por tal forma semelhante que possa induzir em
erro.

Pede deferimento
Maputo⁸⁷, _____ de _____ de
200____ ⁸⁸

_____ ⁸⁹

⁷⁹ Insert name of town or city where the document is being submitted

⁸⁰ Insert name of town or city where the document is being submitted

⁸¹ Insert name of person who will sign the document, as it appears on their identity document

⁸² Delete as applicable, casado = married, solteiro = single

⁸³ Delete as applicable according to type of identity document to be used, and include document number

⁸⁴ Insert name of authority which issued the identity document

⁸⁵ Insert date of issue of identity document

⁸⁶ Insert company name you wish to register

⁸⁷ Insert name of town or city where the document is being submitted

⁸⁸ Insert date

⁸⁹ Sign and have signature notarised

ANNEX 10.2: ESTATUTOS

Please note that this is a free translation. Please also note that this is one of many types of *estatuto* that may be used. It is recommended that professional advice is sought if the company wishes to differ from this model in any way.

Estatutos da/Articles of Association of

_____ ⁹⁰, Lda./Ltd.

Artigo 1º (Denominação e Sede) Name and Headquarters

1. A sociedade adopta a denominação de _____ ⁹¹, e constitui-se sob a forma de sociedade por quotas de responsabilidade limitada.

The society takes the name _____, and is incorporated as a limited liability quota company

2. A sociedade tem a sua sede na _____, ⁹² podendo abrir ou fechar sucursais, delegações, agências ou qualquer outra forma de representação social.

The company has its headquarters in _____ and may open or close branches, delegations, agencies or any other form of representation.

3. Mediante simples deliberação, pode a gerência transferir a sede para qualquer outro local do território nacional ou estrangeiro.

Through a simple resolution the management can transfer the headquarters to any other place in the country or abroad

Artigo 2º (Duração) Duration

A duração da sociedade é por tempo indeterminado.

The duration of the society is for an indeterminate period of time.

Artigo 3º (Objecto) Objective

1. A sociedade tem por objecto _____ ⁹³.

The purpose of the society is _____

2. A sociedade poderá exercer outras actividades subsidiárias ou complementares do seu objecto principal, desde que, devidamente autorizadas.

The company can carry out other activities either subsidiary or complementary to the principal objective, when these are duly authorized

⁹⁰ Insert company name as per *certidão negativa*

⁹¹ Insert company name as per *certidão negativa*

⁹² Insert name of town or city where company is being incorporated

⁹³ Insert the activities the company will undertake, for example service provision, wholesale or retail sales, import and export etc.

3. A sociedade poderá ainda associar-se ou participar no capital social de outras empresas.

The company can associate with or participate in the social capital of other companies

Artigo 4º **(Capital social) Social Capital**

O capital social, integralmente realizado e subscrito em dinheiro, bens, direitos e outros valores é de _____⁹⁴Mts (_____⁹⁵Meticais), encontrando-se dividido em _____⁹⁶ quotas distribuídas da seguinte forma:

The capital of the company subscribed and paid up in goods, cash, rights or other forms of value is _____Mts (_____Meticais), divided into _____ quotas, distributed as follows:

a) Uma quota de _____⁹⁷Mts (_____⁹⁸meticais), equivalente a _____⁹⁹% do capital, pertencente à _____¹⁰⁰; e

One quota of _____Mts, equal to _____% of the capital, belonging to the _____; and

b) Uma quota de _____Mts (_____meticais), equivalente a _____% do capital, pertencente à _____.

*One quota of _____Mts, equal to _____% of the capital, belonging to _____.*¹⁰¹

Artigo 5º **(Prestações suplementares e suprimentos) Supplementary payments and quotaholders' loans**

Não serão exigíveis prestações suplementares de capital, podendo, porém, os sócios concederem à sociedade os suprimentos de que necessite, nos termos e condições fixados por deliberação da respectiva gerência.

Supplementary payments of capital may not be requested; however, the quotaholders may resolve to make the necessary quotaholder loans, under the terms and conditions established by resolution of the management

Artigo 6º **(Divisão, cessão, oneração e alienação de quotas) Division, assignment, encumbrance and transfer of quotas**

1. A divisão e cessão de quotas, bem como a constituição de quaisquer ónus ou encargos sobre as mesmas carecem do prévio consentimento da sociedade, dada por deliberação da respectiva Assembleia-Geral

⁹⁴ Insert numeric value of social capital

⁹⁵ Insert value of social capital in words

⁹⁶ Insert number of quotas

⁹⁷ Insert numeric value of quota

⁹⁸ Insert value of quota in words

⁹⁹ Insert percentage value of quota

¹⁰⁰ Insert full name of quotaholder

¹⁰¹ Fill gaps with information as required for a). Add further lines depending on number of quotaholders

The division or assignment of quotas as well as the establishment of any encumbrance or charge thereon requires the prior consent of the company, given by deliberation of the General Assembly.

2. O sócio que pretenda alienar a sua quota informará à sociedade, com o mínimo de 30 dias de antecedência, por carta registada com aviso de recepção, ou outro meio de comunicação que deixe prova escrita, dando a conhecer o projecto de venda e as respectivas condições contratuais nomeadamente, o preço e a forma de pagamento.

The quotaholder that wishes to transfer its quota shall inform the company, with a minimum of thirty days' notice, by registered mail or other means of communication which leaves a written record, making known its plan of sale and the respective contractual terms, ...

3. Gozam de direito de preferência na aquisição da quota a ser cedida, a sociedade e os restantes sócios, nesta ordem. No caso de nem a sociedade nem o outro sócio desejar usar o mencionado direito de preferência, então o sócio que desejar vender a sua quota poderá fazê-lo livremente a quem e como entender.

The company, followed by the other quotaholders has the right of first refusal to acquire the quota to be assigned. In the case where no other shareholder or the company wishes to use this first right of refusal the shareholder has the right to freely sell his shares to whomsoever he wishes.

4. É nula qualquer divisão, cessão, oneração ou alienação de quotas que não observe o preceituado no presente artigo.

Any division, assignment, encumbrance or transfer of quotas that does not observe the rules of this article is null and void

Artigo 7º **(Amortização de quotas) *Amortizing quotas***

1. A sociedade fica com a faculdade de amortizar as quotas, nos termos do artigo vinte e cinco da Lei das Sociedades por Quotas, Lei de 11 de Abril de 1901, nos seguintes casos:

The society has the right to amortize shares under the terms of article 25 of the shareholding companies' law, Law of 11th April 1901 in the following cases:

a) Por acordo com os respectivos proprietários;

Mutual accord;

b) Por morte ou interdição de qualquer sócio;

Death or bankruptcy of shareholder;

c) Quando recaía sobre a quota uma acção judicial de penhora, arresto ou haja que ser vendida judicialmente;

When the company is forced by necessity to sell shares.

Artigo 8º
(Morte ou incapacidade dos sócios) *Death or Incapacity of the shareholder*

Em caso de morte ou interdição de qualquer um dos sócios, os herdeiros legalmente constituídos do falecido ou representantes do interdito, exercerão os referidos direitos e deveres sociais, devendo mandar um de entre eles que a todos represente na sociedade enquanto a respectiva quota se mantiver indivisa.

In the case of death or foreclosure on one of the shareholders, the legal heirs of the deceased, or the legal representatives have the right to exercise the powers of the shareholder, and amongst themselves they must mandate a representative, ensuring that the shareholding remains undivided.

Artigo 9º
(Obrigações) *Debt instruments*

1. A sociedade poderá emitir obrigações, nominativas ou ao portador, nos termos das disposições legais aplicáveis e nas condições fixadas pela Assembleia Geral.

The company can issue debt instruments, in either registered or bearer form, under the terms of the applicable law and according to conditions established by the General Assembly.

2. Os títulos representativos das obrigações emitidas, provisórios ou definitivos, conterão as assinaturas do presidente do quadro da gerência e mais um gerente, que podem ser apostas por chancela.

The certificates representing the debt instruments issued, whether provisional or definitive, must have the signatures of the chair of the management board and one other manager which may be affixed by seal.

3. Por deliberação da gerência, poderá a sociedade, dentro dos limites legais, adquirir obrigações próprias e realizar sobre elas as operações convenientes aos interesses sociais, nomeadamente proceder à sua conversão ou amortização.

By resolution of the management the company may, within legal limits, acquire its own debt instruments and carry out with them any operation convenient to the interests of the company, namely proceed to convert or retire them.

Artigo 10º
(Assembleia geral) *General Assembly*

1. A Assembleia Geral reúne-se ordinariamente na sede social ou qualquer outro sítio a ser definido pela mesma na sua primeira reunião, uma vez por ano, para aprovação do Balanço Anual de Contas e do exercício, e, extraordinariamente, quando convocada pela gerência, sempre que for necessário, para se deliberar sobre quaisquer outros assuntos para que tenha sido convocada.

The General Assembly ordinarily meets in the headquarters of the company or any other place defined at the first General Assembly, once a year to review the annual accounts, and extraordinarily when called by the management whenever necessary to deliberate on any question for which it has been called

2. É dispensada a reunião da Assembleia Geral e dispensadas as formalidades da sua convocação quando todos os sócios concordarem por escrito na deliberação ou concordem que por esta forma se delibere, considerando-se válidas, nessas condições, as deliberações tomadas, ainda que realizadas fora da sede social em qualquer ocasião e qualquer que seja o seu objecto.

The meeting of the General Assembly and the formalities of calling it may be dispensed with when all quotaholders agree in writing on the deliberations, or when they agree that deliberations may take such form. Under these conditions the decisions taken, even if taken outside the headquarters, on any occasion or for any purpose, shall be considered valid

3. Exceptuam-se as deliberações que importem modificações dos estatutos e dissolução da sociedade.

Exceptions to this are resolutions that entail amendment of the articles of association or dissolution of the company

4. A Assembleia Geral será convocada pela presidente do quadro da gerência, ou por três membros do quadro da gerência, por carta registada com aviso de recepção, ou outro meio de comunicação que deixe prova escrita, a todos os sócios da sociedade com a antecedência mínima de trinta dias, dando-se a conhecer a ordem de trabalhos e a informação necessária à tomada de deliberação, quando seja esse o caso.

The General Assembly is called by the chair of the management board, or by three members of the management board, by registered letter with proof of delivery or other means of communication that leaves a written record, sent to all the quotaholders with a minimum of thirty days' notice, giving the agenda and the information necessary to take decisions when called for

5. Por acordo expresso dos sócios, pode ser dispensado o prazo previsto no número anterior.

By written agreement of the quotaholders the time period in the previous paragraph may be dispensed with

Artigo 11º

(Representação em Assembleia Geral) Representation in the General Assembly

1. O sócio que for pessoa colectiva far-se-á representar na Assembleia Geral pela pessoa física para esse efeito designada, mediante simples carta dirigida à gerência e por este recebida até às dezassete horas do último dia útil anterior à data da sessão.

A quotaholder that is a legal person shall cause itself to be represented at the General Assembly by the natural person designated for the purpose, by means of a simple letter addressed to the management and received thereby by 17h00 on the last working day before the meeting.

2. Qualquer dos sócios poderá ainda fazer-se representar na Assembleia Geral por outro sócio, mediante comunicação escrita dirigida pela forma e com a antecedência indicadas no número anterior.

Any one of the quotaholders may be represented in the General Assembly by any of the other quotaholders by means of communication in the manner and with the timing set forth in the preceding paragraph.

Artigo 12º

(Votação) Voting

1. A Assembleia Geral considera-se regularmente constituída para deliberar quando, estejam presentes ou devidamente representados setenta e cinco por cento do capital social.

The General Assembly is considered regularly constituted to deliberate when there is present or represented seventy-five per cent of the capital.

2. As deliberações da Assembleia Geral serão tomadas por maioria simples dos votos presentes ou representados.

The decisions of the General Assembly are taken by simple majority vote of those present or represented.

3. As deliberações da Assembleia Geral que importem a modificação dos estatutos ou a dissolução da sociedade, serão tomadas por maioria qualificada de setenta e cinco por cento dos votos do capital social.

Decisions which involve changes to the articles of association or dissolution of the company are taken by supermajority of seventy-five percent of the votes of the capital.

4. Os sócios podem votar com procuração dos outros sócios ausentes, e não será válida, quanto às deliberações que importem modificação do pacto social ou dissolução da sociedade, a procuração que não contenha poderes especiais quanto ao objecto da mesma deliberação.

Quotaholders may vote with a power of attorney from other, absent quotaholders, but in respect of decisions that entail amending the articles of association or dissolving the company, powers of attorney that do not contain specific powers for the purpose shall not be valid.

5. A cada quota corresponderá um voto por cada duzentos e cinquenta meticais de capital respectivo.

Each quota has one vote for each two hundred and fifty meticais of capital, respectively.

Artigo 13º **(Gerência e Representação) Management and Representation**

A administração e gerência da sociedade e a sua representação, dispensada de caução e com ou sem remuneração conforme, vier a ser deliberado em assembleia geral, fica a cargo do sócio gerente _____¹⁰², bastando a sua assinatura para obrigar a sociedade em todos os actos e contratos, activa e passivamente, em juízo e fora dele, tanto na ordem jurídica interna como internacional, dispondo dos mais amplos poderes legalmente consentidos.

O sócio gerente poderá designar um ou mais mandatários e neles delegar total ou parcialmente, os seus poderes.

O sócio gerente, ou seu mandatário não poderá obrigar a sociedade em actos e contratos que não digam respeito aos negócios sociais, nomeadamente em letras de favor, fianças, abonações ou outras semelhantes.

The administration and management of the company and its representation, carried out with all due caution, with or without payment, according to the deliberations of the general assembly is the charge of the managing director _____, and his signature is sufficient to represent the company in all acts and contracts, active and passive, according to local and international legal norms, and to carry out all powers legally invested in him.

The managing director can designate one or more persons mandated to hold all or part of his powers.

The managing director or his representative may not involve the company in acts or contracts, which do not respect the law.

¹⁰² Insert name of managing director.

Artigo 14º
(Balanço e Prestação de contas) *Accounts and their Presentation*

1. O ano social coincide com o ano civil.

The company's fiscal year coincides with the civil year

2. O balanço e a conta de resultados fecham a trinta e um de Dezembro de cada ano, e carecem de aprovação da Assembleia Geral, a realizar-se até ao dia trinta e um de Março do ano seguinte.

The accounts are closed on 31st December each year and must be approved by the General Assembly by 31st March of the following year

Artigo 15º
(Resultados) *Results*

1. Dos lucros apurados em cada exercício deduzir-se-á, em primeiro lugar, a percentagem legal estabelecida para a constituição do fundo de reserva legal, enquanto se não encontrar realizada nos termos da lei, ou sempre que for necessário reintegrá-la.

From the profits of each fiscal year there shall be deducted firstly the legally stipulated percentage for the legal reserve fund, to the extent not previously established in accordance with the law or whenever necessary to top it up.

2. A parte restante dos lucros será aplicada nos termos que forem aprovados pela Assembleia Geral.

The remaining profits shall be applied as decided by the General Assembly.

Artigo 16º
(Dissolução e liquidação da Sociedade) *Dissolution or liquidation of the company*

1. A sociedade se dissolve nos casos expressamente previstos na lei ou por deliberação unânime dos sócios.

The society can be dissolved according to the law or by unanimous agreement of the quotaholders.

2. Declarada a dissolução da sociedade, proceder-se-á à sua liquidação gozando os liquidatários, nomeados pela Assembleia Geral, dos mais amplos poderes para o efeito.

Having declared the company dissolved, liquidation is undertaken by the receivers named by the General Assembly and having the broadest possible powers for the purpose.

3. Em caso de dissolução por acordo dos sócios, todos eles serão os seus liquidatários e a partilha dos bens sociais e valores apurados proceder-se-a conforme deliberação da Assembleia Geral.

In cases of voluntary liquidation by the shareholders, all of them are the liquidators and the disposal of goods and finances must be decided by the general assembly.

Artigo 17º
(Disposições finais) *Final provisions*

1. As omissões aos presentes estatutos serão reguladas e resolvidas de acordo com a Lei de onze de Abril de mil novecentos e um, Lei das Sociedades por Quotas e demais legislação aplicável.

Any omissions in the present articles of association shall be regulated and resolved by the Law of 11th April 1901, the Quotaheld Companies Law, and any other applicable legislation

ANNEX 10.3: BANK ACCOUNT

The following is a letter of request for opening a bank account. As mentioned above this process may not be applicable in all parts of the country.

Maputo¹⁰³, _____ de _____ de 200____¹⁰⁴

Exmos. Senhores
_____ ¹⁰⁵

_____ ¹⁰⁶

Assunto: Abertura de conta da Sociedade ¹⁰⁷

Exmos. Senhores,

A _____¹⁰⁸, Limitada, vem por este meio solicitar a V. Exas., a abertura de conta em _____¹⁰⁹ da sociedade supracitada.

Antecipadamente gratos pela atenção, aproveitamos para apresentar a V. Exas., os nossos melhores cumprimentos.

De V. Exas.,
Atenciosamente

_____ ¹¹⁰

¹⁰³ Insert name of town or city where company is to be incorporated

¹⁰⁴ Insert date

¹⁰⁵ Insert name of bank

¹⁰⁶ Insert address of bank

¹⁰⁷ Insert name of company

¹⁰⁸ Insert name of company

¹⁰⁹ Insert currency of account requested

¹¹⁰ Insert signature and position (e.g. mandate holder, managing director) of signatory

ANNEX 10. 4: PROCURAÇÃO

The following is a standard power of attorney from an individual (not a collective legal person) quotaholder giving the mandate holder named the powers to undertake processes to incorporate the company and apply

Procuração

Eu, _____¹¹¹ residente de _____¹¹² natural de _____¹¹³ portador do passaporte/BI/DIRE¹¹⁴ numero _____¹¹⁵ emitido pelo _____¹¹⁶ no _____/_____/_____¹¹⁷ valido ate _____/_____/_____¹¹⁸ pela presente instrumento constitui minha bastante procuradora _____¹¹⁹ nacional de _____¹²⁰, portador do passaporte/BI/DIRE¹²¹ numero _____¹²² emitido no _____¹²³, pelos _____¹²⁴ residente da _____¹²⁵ a quem confere poderes necessários para representar junto de todas e quaisquer repartições Publicas, entidades oficiais ou administrativas e nomeadamente nos cartórios notariais, Conservatória de Registos e outras, ai tratar do todos assuntos relacionadas com eu mandato, podendo assinar escrituras publicas e de habitação, praticar quaisquer actos de registo e assinar escrituras de sociedade e outras documentos que for exigida e junto as finanças pagar impostos, contribuições, assinar licenças e outras despesas exarar declarações verbais ou por escrito, e para todos efeitos requerer, praticar, promover e assinar tudo como se próprio fosse.

Esta procuração foi lida e compreendida.

Assinada _____¹²⁶ no dia _____ de _____ de 200 ____¹²⁷.
_____¹²⁸

¹¹¹ Insert name of person giving mandate as it appears in identity document

¹¹² Insert country of residence

¹¹³ Insert country of birth or nationality

¹¹⁴ Delete as applicable

¹¹⁵ Insert number of identity document

¹¹⁶ Insert name of authority which issued the identity document

¹¹⁷ Insert date of issuance of identity document

¹¹⁸ Insert expiry date of identity document

¹¹⁹ Insert full name of person receiving mandate

¹²⁰ Insert country of birth or nationality of person receiving mandate

¹²¹ Delete as applicable

¹²² Insert number of identity document of person receiving mandate

¹²³ Insert date of issuance of identity document of person receiving mandate

¹²⁴ Insert name of authority which issued the identity document of person receiving mandate

¹²⁵ Insert residential address of person receiving the mandate

¹²⁶ Insert location where *procuração* is signed

¹²⁷ Insert date when *procuração* is signed

¹²⁸ Insert signature of person giving mandate. This signature must be notarised

Annex 10.5: Registo provisório e definitivo

EXMO. SENHOR CONSERVADOR
CONSERVATÓRIA DO REGISTO COMERCIAL DE _____¹²⁹
_____¹³⁰

A _____¹³¹, solteiro/casado¹³², maior, natural de _____¹³³, portadora de
passaporte/BI/DIRE¹³⁴ No. _____¹³⁵ vem por este meio, na sua carga como
procuradora mui respeitosamente, requerer a V. Excia se digne registar a constituição da empresa,
_____¹³⁶Limitada sociedade por quotas de responsabilidade limitada, para o que
se declara:

Que a referida sociedade tem a sua sede social nesta cidade da _____¹³⁷.

Que a sociedade tem por objecto social a _____¹³⁸.

Que o capital social, integralmente realizado e subscrito em dinheiro e bens é de é de
_____¹³⁹Mt (_____¹⁴⁰de meticais) correspondente a soma de _____¹⁴¹ quotas dos
sócios _____¹⁴², _____%¹⁴³ e _____¹⁴⁴.

Que a administração e gerência da sociedade e a sua representação, é exercida por sócio
gerente _____¹⁴⁵

Que a sua duração é por tempo indeterminado.

As tais cláusulas constam da escritura de _____¹⁴⁶. _____¹⁴⁷ Mais
requer que lhe seja emitida a respectiva certidão de registo *provisório / definitivo*¹⁴⁸.

Pede deferimento

_____¹⁴⁹, ____ de _____ de 200 ____¹⁵⁰

_____¹⁵¹

¹²⁹ Insert name of town or city where company is to be incorporated

¹³⁰ Insert name of town or city where company is to be incorporated

¹³¹ Insert name of mandate holder or managing director – the person who will sign the letter

¹³² Delete as applicable solteiro = single, casado = married

¹³³ Insert nationality of signatory

¹³⁴ Delete as applicable

¹³⁵ Insert number of identity document of signatory

¹³⁶ Insert name of company as it appears on *certidão negativa*

¹³⁷ Insert name of town or city where company is to be incorporated

¹³⁸ Insert activities company will undertake as per the “*objectivos*” in the *estatutos*

¹³⁹ Insert numeric value of social capital

¹⁴⁰ Insert value of social capital in words

¹⁴¹ Insert number of quotas

¹⁴² Insert name of first quotaholder

¹⁴³ Insert percentage value of quota as held by first quotaholder

¹⁴⁴ Insert details of other quotaholders in the same manner as for the first quotaholder – name and percentage of quota

¹⁴⁵ Insert name of managing director if named in the *estatutos*

¹⁴⁶ Insert date of *escritura* as per certificate issued by notary

¹⁴⁷ Insert date and publication number of *BR* in case of *registo definitivo*

¹⁴⁸ Delete as applicable

¹⁴⁹ Insert name of town or city where company is to be incorporated

¹⁵⁰ Insert date

¹⁵¹ Insert signature and position of signatory (mandate holder, managing director etc.)

ANNEX 10.6: REQUEST FOR LICENSING

The content and lay-out of this document are subject to change under the new industrial and commercial licensing legislation.

SENHOR MINISTRO DE INDUSTRIA E COMERCIO¹⁵²
MAPUTO

EXCELENCIA,

_____ ¹⁵³Lda. sociedade comercial por quotas de responsabilidade limitada, constituída por escritura pública de _____ ¹⁵⁴, com sede na _____ ¹⁵⁵, com o capital social de _____ ¹⁵⁶ de meticais correspondente a soma de _____ ¹⁵⁷ quotas, conforme o pacto social em anexo, representada pela _____ ¹⁵⁸ _____ ¹⁵⁹, desejando exercer actividade de _____ ¹⁶⁰ no estabelecimento sito na _____ ¹⁶¹, do Regulamento de Licenciamento de Actividades Comerciais/Industriais¹⁶² aprovado pelo Decreto 39/03 de 26 de Novembro/ Decreto 48/04 de 17 de Novembro¹⁶³, vem mui respeitosamente requerer a Vossa Excelência se digne nos termos do citado regulamento autorizar o seu licenciamento

Pede Deferimento

_____ ¹⁶⁴

_____ ¹⁶⁵

¹⁵² Requests may either be addressed to the Minister or Provincial Governor or Provincial Director, depending on activity

¹⁵³ Insert company name

¹⁵⁴ Insert date of *escritura* as per certificate issued by notary

¹⁵⁵ Insert address of proposed office/factory

¹⁵⁶ Insert value of *capital social* in numbers and words

¹⁵⁷ Insert number of quotaholders

¹⁵⁸ Insert title of signatory of letter (e.g. mandate holder, managing director etc.)

¹⁵⁹ Insert name, marital status, nationality, identity document type, number, issuing authority and issue date of signatory

¹⁶⁰ Insert type of activity to be undertaken (commercial or industrial, plus in the case of commercial the categories of activity as per the tables issued by the Ministry of Industry and Commerce)

¹⁶¹ Insert address of proposed office/factory

¹⁶² Delete as applicable

¹⁶³ Delete as applicable, Decreto 39/03 de 26 de Novembro applies to industrial licensing and Decreto 48/04 de 17 de Novembro applies to commercial licensing

¹⁶⁴ Insert name of town or city where application is made, and insert date

¹⁶⁵ Insert signature and title of signatory (mandate holder, managing director etc.)

ANNEX 10.7: REQUEST FOR VISTORIA

EXMO SENHOR
DIRECTOR PROVINCIAL DA INDUSTRIA E COMERCIO

166

_____ ¹⁶⁷ LDA, sociedade comercial, com sede na _____ ¹⁶⁸ cidade da
_____ ¹⁶⁹ Província de _____ ¹⁷⁰, representada pelo _____ ¹⁷¹
¹⁷²tendo sido autorizado por despacho do dia _____ ¹⁷³ de _____ ¹⁷⁴ para
proceder a abertura de um estabelecimento comercial/industrial¹⁷⁵ na
_____ ¹⁷⁶, vem por este meio requerer a V. Excia se digne nos termos
do n.º 3 do Artigo 18 do Decreto 39/03 de 26 de Novembro/No. 2 do Artigo 13 do
Decreto 48/04 de 17 de Novembro¹⁷⁷ mandar vistoriar o referido estabelecimento.

Pede deferimento

178

179

166 Insert town or city where the inspection is to take place

167 Insert company name as it appears in *certidão negativa*

168 Insert address as per plans and contract submitted

169 Insert town or city

170 Insert name of province

171 Insert title of person signing letter e.g. mandate holder, managing director

172 Insert full name of signatory as per identity document

173 Insert date of dispatch authorizing licensing of the company

174 Insert title of person issuing this dispatch (provincial governor, provincial director etc.)

175 Delete as applicable

176 Insert address where inspection is to take place (usually this will correspond to note 160 above)

177 Delete as applicable, Decreto 39/03 de 26 de Novembro applies to industrial licensing and Decreto 48/04 de 17 de Novembro applies to commercial licensing

178 Insert name of town or city where application is made, and insert date

179 Insert signature and title of signatory (mandate holder, managing director etc.)

ANNEX 10. 8: TABLE OF FEES FOR COMMERCIAL LICENSING

a) Costs for issuance of operating license per class (Meticais)

TYPE OF ACTIVITY	ZONE				
	CITIES			Towns	Rural areas
	Maputo Matola Beira Nampula Nacala	Pemba Quelimane Tete Inhambane Maxixe Xai-Xai Chimoio Chokwé	Lichinga and other cities		
Retail and wholesale commerce or wholesale only with import and export	500.000	400.000	300.000	150.000	50.000
Service provision	1.000.000	750.000	500.000	100.000	50.000
Additions	1.500.000	1.000.000	750.000	500.000	200.000
Wholesale and retail commerce	400.000	300.000	250.000	100.000	50.000
Wholesale only	300.000	250.000	200.000	1.500.000 *	750.000 *
Retail or general commerce with or without export	250.000	150.000	100.000	1.000.000 *	500.000 *

* Cost for each license.

b) Costs for inspections (Meticais)

TYPE OF ACTIVITY	ZONES				
	CITIES			Towns	Rural areas
	Maputo Matola Beira Nampula Nacala	Pemba Quelimane Tete Inhambane Maxixe Xai-Xai Chimoio Chokwé	Lichinga and other cities		
Hypermarkets, supermarkets, commercial centers, vehicle and parts Sales stands, video clubs including sale of household electrical items, wholesale and retail Sales with import and export, hardware, interior design, household and furnishing shops	2.500.000	1.500.000	1.000.000	750.000	300.000
Grocery, general store, bakeries, chilled food	1.500.000	1.000.000	750.000	500.000	200.000

stores, domestic goods, fishmongers, florists, chemist, auction houses, discos, sales of seeds, plants and medicinal herbs, sporting goods, decorative items, fashion outlets, hairdressers, watch sellers, optometrists, drinking establishments, butchers, video clubs and service					
Tobacconists, perfume shops, photographers, cinemas, bread deposits, shoemakers, dressmakers, watch menders, repair of small electrical goods	1.000.000	750.000	500.000	300.000	100.000

ANNEX 10.9: TABLE OF FEES FOR INDUSTRIAL LICENSING

Following approval of the license taxes are paid according to specific tables. Payment is made at the Ministry of Finance representation in the area where the industrial establishment is to be situated. Payment is made using a special form.

The factor used to calculate the taxes owed is minimum wage (SM). The value of minimum wage is then multiplied by the number in the table to give the number payable¹⁸⁰

Scale	Issuance of license x SM	Approval of alterations x SM	Inspections x SM	Certification and decertification of industrial equipment x SM	Transport Mt/Km
Large	5	4	6	1	5000
Medium	4	3	4	1	5000
Small	2	2	2	1	5000
Micro	1	-	-	-	5000

¹⁸⁰ Minimum wage is updated annually and published in a joint ministerial diploma from the Ministries of Plan & Finance and Labor. The current wage for 2004 1.120.297.00 Mt for workers in industry, commerce and other sectors and 805.444.00 Mt for workers in the agriculture sector and was approved in Decree n.º 75/2004 of 28 April.

ANNEX 10.10: SAMPLE OF LEGAL IVA INVOICE

The design and layout of an invoice is dependent on the preference of each company. The sample below is a guide to what information must be included on all invoices. All invoices must be printed by a government approved printer.

ABC ¹⁸¹ , Lda ¹⁸² Av. Nelson Mandela 172 Chimoio Mozambique ¹⁸³ Tel: (258-51) 22 369 Fax: (258-51) 22 370 ¹⁸⁴ NUIT: 7000069871¹⁸⁵		Nome ¹⁸⁶ _____ _____ Endereço ¹⁸⁷ _____ _____ _____ NUIT ¹⁸⁸ : _____	
Data:	_____ de _____ de 200_____	FACTURA Nº:	2194¹⁸⁹
Quant	Descrição	Preço Unitário	Total
Motivo justificativo de não aplicação do imposto ¹⁹⁰ _____ _____		Sub-Total	
		IVA 17%	
		Total	
Processado Por Computador ¹⁹¹			
Steamline-Beira ¹⁹² /4000065213 ¹⁹³ Aut No: 154/MPF/02 ¹⁹⁴ 50 Liv. 3x50 2000 a 4500 ¹⁹⁵			

¹⁸¹ Full name of company

¹⁸² Type of company :- Lda, SARL

¹⁸³ Full address of company

¹⁸⁴ Whilst not a legal requirement all the company's details can be listed e.g email, web site etc.

¹⁸⁵ The company's VAT registration number (*NUIT*) must be recorded

¹⁸⁶ Full name of the customer

¹⁸⁷ Full address of the customer

¹⁸⁸ VAT registration number (*NUIT*) of the customer

¹⁸⁹ All invoices must be numbered

¹⁹⁰ Only included if the company is going to be selling goods or services to companies that are VAT exempt

¹⁹¹ Invoices are often hand-written. If they are computer generated this fact must be included on the invoice

¹⁹² Name of the Government Authorised Printing Press which printed the invoices

¹⁹³ VAT registration number (*NUIT*) of the Government Authorised Printing Press which printed the invoices

¹⁹⁴ Government authorisation number of the Government Authorised Printing Press which printed the invoices

¹⁹⁵ Number of invoice books printed, the format and the invoice numbers sequence. This sample shows 50 invoice books, 3 copies of each invoice, 50 invoices per book, invoice numbers 2000 to 4500

