

Company Incorporation in the UAE - Abu Dhabi

General Terms & Conditions

Any company incorporated in the Emirate of Abu Dhabi should hold the UAE nationality and have its domicile in it. Of course, this should not necessarily entail enjoying the same rights and privileges entitled to nationals or confined to them.

2. Any company incorporated in the Emirate of Abu Dhabi should have one or more national partners having a share or shares of not less than (51%). This is, of course not applicable in case of a General Partnership which should have its capital purely and entirely national.
3. All partners in any company incorporated in the Emirate of Abu Dhabi should sign a pertinent memorandum

written in Arabic language and duly authenticated by the Notary Public at the Court Law.


However, testimony to prove a matter in variance or in excess of the stipulations in the company memorandum should not be acceptable in case of any dispute arising between the partners.

4. Any company incorporated in the Emirate of Abu Dhabi should have its memorandum and any amendment thereto duly registered in the Commercial Register and the Companies Section at the Ministry of Economy & Commerce. Except for Joint Participation, companies should also obtain the Abu Dhabi Chamber of

Commerce & Industry Membership Certificate and the Abu Dhabi Municipality licence.

5. Partners may not agree in the company memorandum on depriving any of them from receiving profit nor on exempting any from suffering loss, otherwise the memorandum is to be considered null and void by the force of law.
6. Any company incorporated in the Emirate of Abu Dhabi should be duly licensed by the Department of Planning & Economy. The licence should be annually renewed.
7. The memorandum of any company incorporated in the Emirate of Abu Dhabi should contain the following particulars:

Each partner's name; surname; title; nationality; date of birth and domicile. The company's name; purpose; head office; capital; the share of each partner, lifetime; the commencement and end of fiscal year; the terms of profit/loss distribution; dispute-solving party; terms of notification; terms of share assignment and value estimation; terms of joining or leaving by a partner(s); terms of liquidation; partners liabilities and any other information or stipulations agreed among partners who show willingness to include them in the memorandum, providing that such stipulations should be in conformity with the enacted laws.



Company Incorporation in the UAE - Abu Dhabi

General Terms & Conditions

Any company incorporated in the Emirate of Abu Dhabi should hold the UAE nationality and have its domicile in it. Of course, this should not necessarily entail enjoying the same rights and privileges entitled to nationals or confined to them.

2. Any company incorporated in the Emirate of Abu Dhabi should have one or more national partners having a share or shares of not less than (51%). This is, of course not applicable in case of a General Partnership which should have its capital purely and entirely national.
3. All partners in any company incorporated in the Emirate of Abu Dhabi should sign a pertinent memorandum

written in Arabic language and duly authenticated by the Notary Public at the Court Law.


However, testimony to prove a matter in variance or in excess of the stipulations in the company memorandum should not be acceptable in case of any dispute arising between the partners.

4. Any company incorporated in the Emirate of Abu Dhabi should have its memorandum and any amendment thereto duly registered in the Commercial Register and the Companies Section at the Ministry of Economy & Commerce. Except for Joint Participation, companies should also obtain the Abu Dhabi Chamber of

Commerce & Industry Membership Certificate and the Abu Dhabi Municipality licence.

5. Partners may not agree in the company memorandum on depriving any of them from receiving profit nor on exempting any from suffering loss, otherwise the memorandum is to be considered null and void by the force of law.
6. Any company incorporated in the Emirate of Abu Dhabi should be duly licensed by the Department of Planning & Economy. The licence should be annually renewed.
7. The memorandum of any company incorporated in the Emirate of Abu Dhabi should contain the following particulars:

Each partner's name; surname; title; nationality; date of birth and domicile. The company's name; purpose; head office; capital; the share of each partner, lifetime; the commencement and end of fiscal year; the terms of profit/loss distribution; dispute-solving party; terms of notification; terms of share assignment and value estimation; terms of joining or leaving by a partner(s); terms of liquidation; partners liabilities and any other information or stipulations agreed among partners who show willingness to include them in the memorandum, providing that such stipulations should be in conformity with the enacted laws.



share assignment; partners liabilities; terms of completion if allowed or not. Decision terms of issuance; reasons of company dissolution; terms of liquidation; dispute-settlement agency and any other statements agreed upon by the partners, provided that they should not be in contravention to the laws.

6. The memorandum of a general partnership should not provide for an agreement on depriving a partner from profit or exempting him from suffering loss, otherwise the memorandum will be considered void.

However, it may be agreed to exempt the partner who contributes nothing but his work from bearing a loss. This is because the capital of a general partnership may be paid in cash, in kind or merely a work, although the registered capital should be only formed from cash and kind shares, and this is the reason why such a partner with a work share only may be exempted from suffering loss, as he, in such a case, may lose his time and effort without getting a regular salary against his work which is viewed as his contribution to the company capital.

7. Partners should agree on the percentage of profit and loss in the company memorandum, but may not agree on distribution of fictitious profits by over-

exaggerating the estimate of the company assets.


8. Each partner in a general partnership will be deemed merchant. The bankruptcy of the company will lead to the bankruptcy of all partners. This is accordingly incurring that each partner in the company should be fully capacitated, whereas incapacitated individuals may not be partners in a general partnership.
9. The shares of partners in a general partnership may not be represented by negotiable instruments and may not be assigned to others unless upon approval by all partners. This restriction is reflecting the private feature of the company.
10. The management of a general partnership may be the responsibility of one or more of the partners or a person who is not a partner.

The competence of the manager(s) should be specified in his letter of appointment. In case the manager is a partner and so appointed in the company memorandum, he may not be dismissed except by the unanimous vote of the partners, otherwise dismissal should result in dissolution of the company unless its continuation is so provided in the memorandum.

- However, a manager may not resign without appropriate justifications, otherwise he will be liable for indemnification. Appropriate justifications here are meant to be those deemed acceptable by all partners. In case of different opinions, the judge at the court of law is to take a rightful decision.
- The manager may be held responsible for any damage inflicted on the company or caused to the partners or others in case he acts in contravention to the provisions of the company memorandum.

11. The law also provided that joining the company or withdrawal of partners; voidance of the memorandum; dissolution or liquidation of the company should all be effected at the Commercial Register/Abu Dhabi Municipality and at the Company Section/Ministry of Economy & Commerce.
12. The law did not fix a certain capital amount for a general partnership.





share assignment; partners liabilities; terms of completion if allowed or not. Decision terms of issuance; reasons of company dissolution; terms of liquidation; dispute-settlement agency and any other statements agreed upon by the partners, provided that they should not be in contravention to the laws.

6. The memorandum of a general partnership should not provide for an agreement on depriving a partner from profit or exempting him from suffering loss, otherwise the memorandum will be considered void.

However, it may be agreed to exempt the partner who contributes nothing but his work from bearing a loss. This is because the capital of a general partnership may be paid in cash, in kind or merely a work, although the registered capital should be only formed from cash and kind shares, and this is the reason why such a partner with a work share only may be exempted from suffering loss, as he, in such a case, may lose his time and effort without getting a regular salary against his work which is viewed as his contribution to the company capital.

7. Partners should agree on the percentage of profit and loss in the company memorandum, but may not agree on distribution of fictitious profits by over-

exaggerating the estimate of the company assets.

8. Each partner in a general partnership will be deemed merchant. The bankruptcy of the company will lead to the bankruptcy of all partners. This is accordingly incurring that each partner in the company should be fully capacitated, whereas incapacitated individuals may not be partners in a general partnership.
9. The shares of partners in a general partnership may not be represented by negotiable instruments and may not be assigned to others unless upon approval by all partners. This restriction is reflecting the private feature of the company.
10. The management of a general partnership may be the responsibility of one or more of the partners or a person who is not a partner.

The competence of the manager(s) should be specified in his letter of appointment. In case the manager is a partner and so appointed in the company memorandum, he may not be dismissed except by the unanimous vote of the partners, otherwise dismissal should result in dissolution of the company unless its continuation is so provided in the memorandum.

- However, a manager may not resign without appropriate justifications, otherwise he will be liable for indemnification. Appropriate justifications here are meant to be those deemed acceptable by all partners. In case of different opinions, the judge at the court of law is to take a rightful decision.
- The manager may be held responsible for any damage inflicted on the company or caused to the partners or others in case he acts in contravention to the provisions of the company memorandum.

11. The law also provided that joining the company or withdrawal of partners; voidance of the memorandum; dissolution or liquidation of the company should all be effected at the Commercial Register/Abu Dhabi Municipality and at the Company Section/Ministry of Economy & Commerce.
12. The law did not fix a certain capital amount for a general partnership.



Note....

Without prejudice to the above provisions, the founder members may, in addition to their allowed percentage of 20 - 45%, subscribe to the remaining shares that were not subscribed to providing that such over-subscription by them will remain subject to approval by the Department of Planning & Economy and the Minister of Economy & Commerce as well.

However, if the subscription exceeds the number of shares offered, the shares must be proportionately distributed among subscribers, providing that each one of them should have the option of getting such allocated shares whatever was the number of shares he initially subscribed to.

The bank at which the subscription was conducted, should deposit the amounts received from the shareholders for the account of the company under incorporation as a preliminary step. The bank may thereafter deliver the amounts mentioned hereinabove to the company's board of directors once the company is duly registered in the Commercial Register and licensed by the Department of Planning & Economy and Abu Dhabi Chamber of Commerce & Industry.

6. Within thirty days after the closure of subscription, the founder members should call the subscribers to a first

general assembly meeting. A copy of the invitation should be sent to both the Department of Planning & Economy and the ministry of Economy & Commerce.

In case the period mentioned in this paragraph above expires with failure by the incorporators to make such a call to the first general assembly meeting, the Ministry of Economy & Commerce must make the call instead. The quorum for the first general assembly meeting will not be achieved unless upon attendance by the holders of three quarters of the paid up shares or their representatives. In case of failure to meet the above quorum, the founder members should call to a second general assembly within thirty days from the date of the first meeting. The second assembly quorum will be achieved upon presence of those holders of 50% of the total company shares or their representatives. Otherwise, all or any of the shareholders present, shall have the right to demand the dissolution of the company or to call to a third meeting within (15) days from the date of the second meeting. At the third meeting, the quorum will be achieved by the attendance of any number of subscribers.

Resolutions of the first general assembly will be adopted by an absolute

majority of the shares represented at the assembly. Both the Ministry and the competent authority shall have the right to send one or more representatives to attend the meeting as observers without the right to vote, but whose attendance shall be recorded in the minutes of the assembly. The said minutes shall, however, contain decisions in the following matters:-

1. Giving opinion on the founders report concerning incorporation formalities of the company and incurred expenses.
2. The election of the first board of directors for a period of not more than three years and with a number varying between three and fifteen.
3. Appointment of auditors.
4. Ratification of the valuation of stocks in kind, if any.
5. Declaration of the completion of the company incorporation.

The decisions in this meeting shall be taken by the majority vote represented in it.

- 7) After that, the founder members committee shall, within seven days from the date of the first general assembly, present a request to the Ministry of Economy & Commerce to declare the company incorporation. The Ministry

shall, thereafter issue a resolution declaring the company incorporation within thirty days from the date of request. The resolution decreed shall, thereafter, be promulgated in the Official Gazette together with the memorandum and articles of association of the company. The board of directors should within fifteen days from the date of declaring the company incorporation, apply for registration in the Commercial Register and for acquiring the Membership Certificate from Abu Dhabi Chamber of Commerce & Industry, as well as the Department of Planning & Economy.

However, despite that the procedures required for incorporating a joint stock company has been already identified, yet the Federal Law No. (8) also provided for another type which is the Private Joint Stock Company. The special difference between the two types is that in the public joint stock company the founder members subscribe in certain number of shares and float the rest to public subscription, whereas in the private joint stock, the founder members should subscribe to the whole shares and close the door before the Public.

Limited Liability Company - Abu Dhabi

Article (218) of Federal Law No. (8) concerning commercial companies has defined the limited liability company as that in which the number of partners may not exceed fifty and should not be less than two. Each partner should only be liable up to the extent of his share in the capital, and partner's participation should not be represented by negotiable deeds. In case the number of partners is more than seven a supervisory board should be formed of three partners at least to supervise the company operation and manager.

Article (220) prohibited a limited liability company from practicing certain activities such as insurance, banking and investment of funds for the account of others.

Whereas Article (227) fixed the capital of a limited liability company to be not less than Dhs. 150 thousand and formed of equal shares of a minimum value of one thousand Dirhams each.

However, a share should not be divisible, whereas the cash and kind shares should be distributed among all partners, and the

value of each share should be fully paid up at the time of incorporation. Profits or losses should also be equally divided among them unless it is otherwise provided in the company memorandum. This means that the profits or losses may be distributed according to rates that differ from those of sharing in the capital.

A limited liability company should be represented by one manager or more to be selected from among the natural partners, whether from inside or outside the company, providing that they should not be more than five.

In case the company memorandum did not specify the managers responsibilities, they may have the largest scope of powers.

According to the provision of article (244) of the law, a limited liability company should have a general assembly formed of all partners. It may also be provided that the company may have a board of directors as well.

A limited liability company should have its own trade name derived from its purpose,

or formed of the name(s) of a partner(s), or any other innovated name.

All partners should be committed to fulfill payment of the company capital at the time of incorporation. This must be proved by a bank certificate certifying that the company capital has been fully paid up. Each of the partners should, however, be only liable up to the extent of his share in the capital.

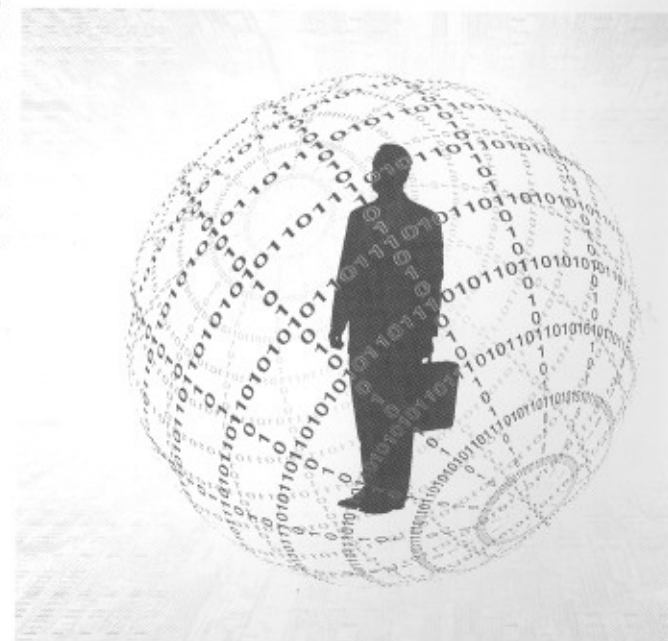
In case of loss and insufficient assets to fulfill the company obligations, or if the partners were reluctant to cover such a loss, the company should be dissolved and liquidated. Upon liquidation, the accrued amount should be distributed to fulfill the company debts. However, no partner should be liable for the company obligations in all his own assets, unless otherwise a partner has guaranteed to fulfill certain debts; loans or any other facilitations on behalf of the company toward the bank or any other third party according to a personal guarantee instrument.

The memorandum of a limited liability company should include the following particulars:

Name; nationality; profession and address of each partner - The company name; purpose; lifetime; headquarters; capital

and terms of increase or decrease - Terms of share assignment - Management - Name(s) and capacities of the manager(s) - Terms of the general assembly convention; term in office; and terms of decision - taking - Terms of memorandum amendment - Partner entry & exit - Fiscal year - Notifications.

The limited liability company form is considered as one of the most important forms of partnership for foreign partners especially that it could be agreed to distribute the profits on proportions different than the contribution to the capital taking into consideration the experience and the efforts of the foreign partner.



Simple Limited Partnership - Abu Dhabi

Article (47) of Federal Law No. (8) of 1984 defined a simple limited partnership as being a company formed by one or more general partners liable for the company liabilities up to the extent of all their assets, and one or more limited partners liable for the company liabilities up to the extent of their respective shares in the capital only. All general partners in a simple limited partnership should be holders of the UAE nationality.

The name of a simple limited partnership should be formed of the names of one or more of the general partners with an additional indication to the existence of a company. In addition to the aforementioned, the company may have an innovated trade name. But, in all cases, the name of any limited partner should not be mentioned in the company name. In case it so happens with the knowledge of such a limited partner, he should be viewed as a general partner vis-a-vis any other bonafide third party.

A simple limited partnership is considered a partnership company vis-a-vis the general partners. This means that they will be

liable for its obligations or liabilities in all their assets, whereas the limited partners will be liable for such obligations within the limits of their share in the capital.

However, in addition to the general particulars, the company memorandum should include the name; surname; nationality; date of birth and domicile of each limited partner in addition to his share in the capital and the paid - up amount thereof.

A limited partner may not interfere in any management functions involving a third party even if he has been so authorized. However, he may contribute to internal managerial performances within the limits provided for in the company memorandum. He may also have the right to request access to the profit/loss accounts and the balance sheet, so as to make sure of accuracy. He may further have the right to review the company books and documents, whether by himself or upon a power of attorney made in favour of another partner or a third party, provided that this would not cause damage to the company, nor hindrance to its functions.

On another scale, if a limited partner performed any management function prohibited by the law, even if this occurred upon an explicit authorization (power of attorney) or implicitly by general partners, they all will be jointly liable for any obligation arising from such performance.

With regard to the company decisions, the law provided that the decisions of a simple limited partnership should be taken by unanimous consensus of all general and limited partners unless otherwise, the

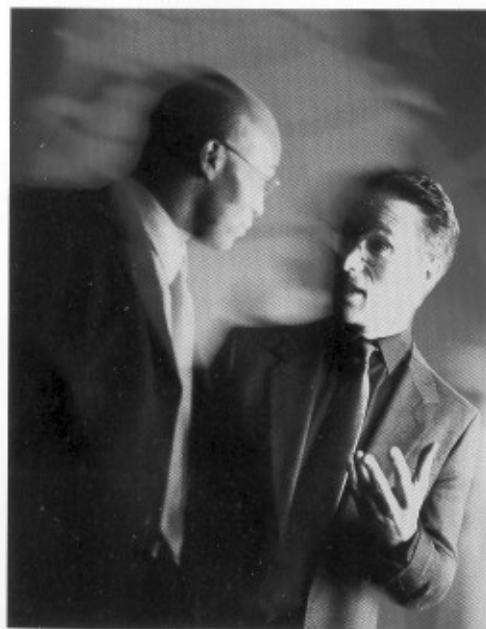
company memorandum provides that majority of votes would be sufficient. Hence, the numerical majority would be adopted or counted upon unless it is otherwise provided.

As for those decisions relating to the amendment of the company memorandum, the law stipulated that such decisions should not be valid unless they are issued upon unanimous consensus of all general and limited partners.



Joint Participation - Abu Dhabi

Article (56) of Federal Law No. (8) of 1984 concerning commercial companies defined a joint participation as being a company concluded between two partners or more on sharing the profits or losses incurred by a single or multiple business operations performed by one of the partners in his personal name.



The law also provided that such a company should be confined to the relationship between partners and may not be effective vis-a-vis any third party. However, the company existence may be proved by all familiar means of evidence, whereas its pertinent contract should regulate the rights and obligations of each partner; the terms of profit/loss distribution and the capital amount. It is worth mentioning here that the contract of a joint participation is neither subject to registration in the commercial register nor to the necessity of being publicized. Yet no municipality license may be issued for such participation whose contract may otherwise be authenticated before the Notary Public.

According to the law provision, a partner in a joint participation may not be viewed as merchant unless he runs business operations by himself. However, each partner in such a company should remain owner of his share, unless it is otherwise agreed upon.

The law, on the other hand, prohibited a joint participation from issuing stocks or negotiable bonds. The most important characteristics of this company is that a third party may not have the right of recourse except toward the partner whom he dealt with. If an action performed by the partners conduits to let a third party be informed of the company existence, it may then be considered a real company in which the partners will be jointly liable towards third parties.

On another side, the law provided that any partner in a joint participation should have the right to review the company books and documents either by himself or through his attorney who may be another partner or a third party, providing that such review should not cause the company any damage or loss, and any agreement to the contrary should be considered null and void according to the said law.





Private Joint Stock Company - Abu Dhabi

Article (215) of Federal Law No. (8) of 1984 concerning commercial companies defined a private joint stock company as being that in which a number of not less than (3) three founder members may incorporate among themselves a private joint stock company whose shares may not be floated to public subscription, but they must fully subscribe to the total capital which may not be less than (Dhs. 2 million).

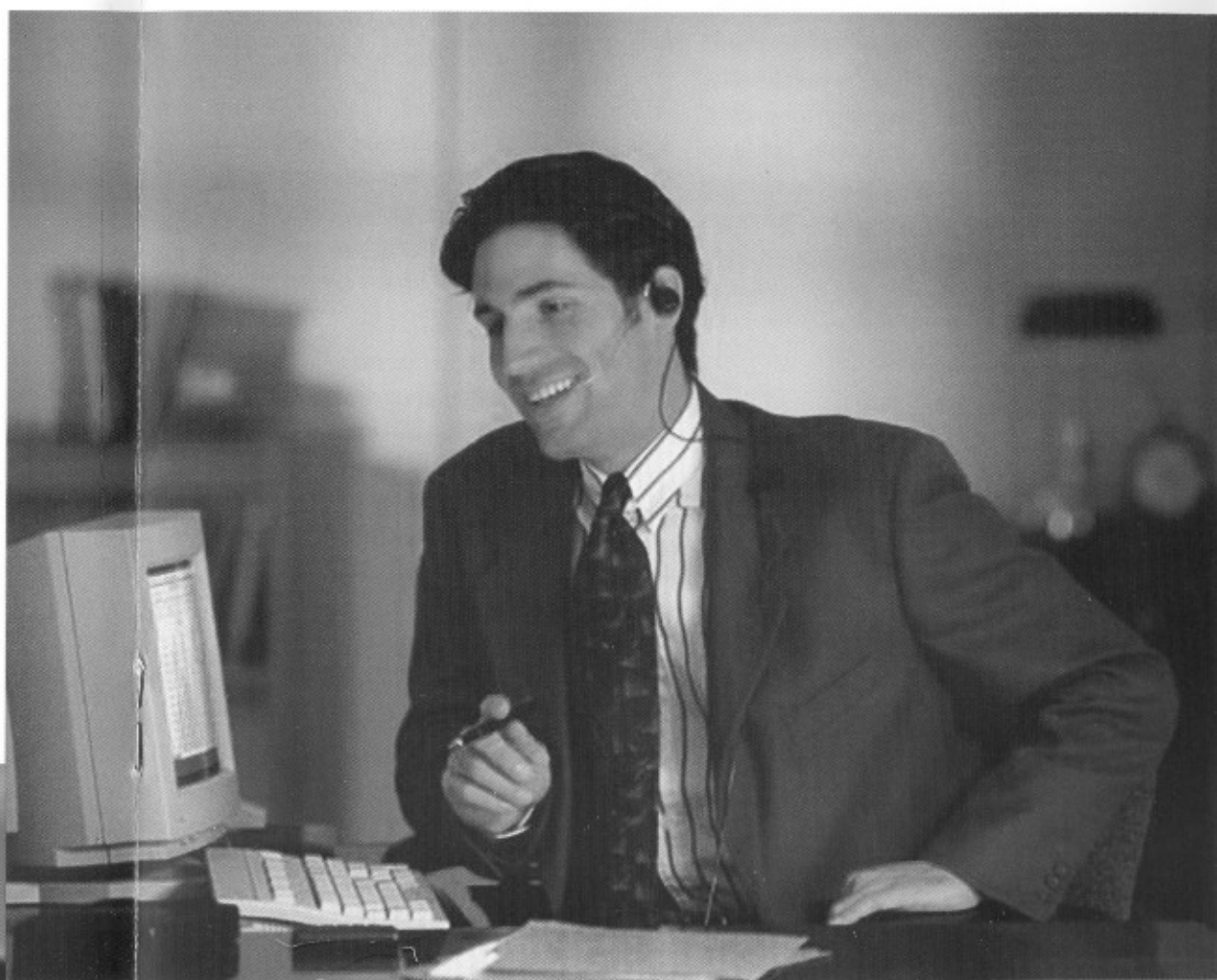
Except the provisions made on public subscription, all the provisions provided in the aforementioned law concerning public joint stock companies should be applicable to private joint stock companies.

However, the law permitted a joint stock to be converted to a public joint stock in case the following terms and conditions are duly fulfilled:

1. The nominal value of issued shares should be fully paid - up.
2. A period of two fiscal years should be elapsed since the early inception of the company.
3. The company should have realized net profits distributable among shareholders with the average of not less than 10% of the capital during the said two years elapsed before the date of requesting conversion.
4. The unordinary general assembly should have taken a decision on conversion upon achieving the majority of votes representing three quarters of the company capital, at least.

5. The Minister of Economy & Commerce would have agreed to issue a decision declaring the company conversion to a public joint stock company. The decision should be promulgated in the offi-

cial gazette along with the company memorandum and article on the expense of the company.



Partnership Limited with Shares - Abu Dhabi

Article (256) of Federal Law No. (8) of 1984 defined a partnership limited with shares as being the company formed of general partners who are jointly liable to the extent of all their assets for the company liabilities, and participating partners who are only liable to the extent of their shares in the capital, whereas all general partners should be holders of the UAE nationality.

Accordingly, this type of company is considered a general partnership for all general partners, because they will be liable up to the extent of all their assets for the company obligations. However, the general partner in such type is considered a merchant even if he did not have such capacity before joining the company.

The capital of a partnership limited with shares should not be less than (Dhs. 500,000) divided into equal value negotiable shares. However, the provisions concerning shares in the public joint stock company type should be applicable to those of a partnership limited with shares whose name must also be formed of the name(s) of one or more general

partner(s), whereas an innovated addition derived from the company purpose may be introduced to the original name.

This means that the name of a participating partner may not be mentioned in the company name. If it so happens with the knowledge of such a participating partner, he will be considered a general partner vis-a-vis any bonafide third party.

In all cases, the term "partnership limited with shares" should be added to the company name, and the provisions concerning the incorporation of a joint stock company shall be effective in the case of a partnership limited with shares, with consideration to the following:

1. All general partners and other incorporators should sign the company memorandum and articles, whereas they all must be considered as incorporators of a public joint stock company as far as liability for the company obligations is concerned.
2. The names; surnames; nationalities and domiciles of all general partners should be mentioned in both the company memorandum and articles.

On another scale, the law provided that the company management should be entrusted to one or more general partner(s). The company memorandum and articles should provide for the names and powers of those to whom management is entrusted.

The law also prohibited a participating partner from interference in the company management operations involving any third party, even if such interference has occurred upon authorization. However, a participating partner may take part in internal management functions within the limits specified in the company articles.

If a participating partner acts in contravention to such prohibition, he should be liable to the extent that absorbs all his assets for the obligations incurred by what management functions he has performed. In case such functions were performed upon an authorization by general partners, those who issued such authorization will be liable for the obligations incurred by his actions.

The law also provided that a partnership limited with shares must have a supervisory board formed of at least three members to be appointed by the general assembly from among participating members or other third parties. The board's term in office should last for one year, renewable

in accordance with the provisions provided in the company articles. The general partners may not have a vote for the appointment of the supervisory board.

A partnership limited with shares should also have a general assembly comprising all shareholders, and should be subject to the provisions made on the general assemblies of public joint stock companies.

According to the law, the general assembly of a partnership limited with shares may not take decisions involving any third party unless upon approval by the company managers.



