I assent,

HYLEETA LIBURD, O.B.E., M.H.
Deputy Governor-General.
11th September, 2023.

ISLAND OF NEVIS

No. 2 of 2023

AN ORDINANCE to amend the Nevis Business Corporation Ordinance, Cap. 7.01 and for matters related thereto and connected therewith.

[*Published 21st September 2023 – Official Gazette No. 54 of 2023*]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Nevis Island Assembly and by the authority of same, as follows:-

1. **Short Title.**

This Ordinance may be cited as the Nevis Business Corporation (Amendment) Ordinance, 2023.

2. **Interpretation.**

In this Ordinance, the "Principal Ordinance" means the Nevis Business Corporation Ordinance, Cap. 7.01.

3. **Amendment of Section 2.**

The Principal Ordinance is amended in section 2 as follows:

(a) by deleting the definition of "authorised custodian";

(b) by inserting the following new definition in the correct alphabetical order:

"electronic signature" means an electronic indication attached to a document which indicates a person's intent to agree to the content of the document to which the signature relates and this may include a wet signature".

4. **Amendment of Section 4.**

Section 4 of the Principal Ordinance is amended as follows:

(a) by deleting subsection (8) in its entirety and replacing it with the following:

"(8) Where a provision of this Ordinance requires an instrument to be filed with the Registrar of Corporations, such requirement means that:

(a) the instrument may be filed electronically on the electronic portal designated by the Registrar of Corporations for the filing of instruments;

(b) upon receipt of the instrument filed electronically, the Registrar of Corporations shall certify that the instrument has been filed by endorsing the word "Filed" upon the instrument and the date of filing shall be the date of the date of payment of the relevant fee;

(c) the endorsement by the Registrar of Corporations under paragraph (b) constitutes the certificate of the Registrar of Corporations that the document is a true duplicate of the instrument filed electronically with his office and that it was filed as of the date stated in the endorsement; and

(d) an instrument filed in accordance with paragraph (b) shall be effective as of the filing date stated thereon.

(b) by adding a new subsection (12) immediately after subsection (11) as follows:

"(12) An instrument filed with the Registrar of Corporations may contain an electronic signature and the Registrar of Corporations shall accept such instrument for filing.

5. **Amendment of Section 9.**

Section 9 of the Principal Ordinance is amended by deleting the section in its entirety and replacing it as follows:

"Notices to shareholders"

Except as provided in Section 85:

(a) any notice or information required to be given to a shareholder shall be provided in the manner designated in the corporation's Articles of Incorporation or Bylaws or, if the notice can no longer be provided as stated therein, the notice shall be published in a publication of general circulation in Nevis or in a place where the corporation has a place of business;

(b) any notice requiring a shareholder to take action in order to secure a right or privilege shall be published or given in time to allow a reasonable opportunity for such action to be taken.

6. **Amendment of Section 18.**

Section 18 of the Principal Ordinance is amended as follows:

(a) by deleting subsection (4) and replacing it as follows:

"(4) Where a corporation which is registered under this Ordinance fails to maintain a registered agent, then service of process in a legal action against that corporation shall be at the last known registered office of the corporation.

(b) by deleting subsections (5), (6), (7) and (8) and renumbering subsection (9) as the new subsection (5).

7. **Amendment of Section 24.**

Section 24 of the Principal Ordinance is amended as follows:

(a) in subsection (1) paragraph (j) by deleting the paragraph and replacing it as follows:

"(j) the number of shares to be issued as registered shares."

(b) in subsection (1) by deleting paragraph (k) and subparagraphs (i) and (ii) which appear after paragraph (k).

8. **Amendment of Section 32.**

Section 32 of the Principal Ordinance is amended by deleting subsection (4) in its entirety and renumbering subsection (5) as the new subsection (4).

9. **Amendment of Section 41.**

Section 41 of the Principal Ordinance is amended as follows:

(a) in subsection (2) by deleting the words "and may be registered or bearer shares" as they appear in that subsection and replacing them with the words "and shall be registered shares";

(b) by deleting subsection (3) in its entirety and renumbering the remaining subsections accordingly.

10. **Amendment of Section 48.**

Section 48 of the Principal Ordinance is amended as follows:

(a) by deleting subsection (3) in its entirety and replacing it as follows:

"(3) Shares shall be issued in registered form only."

(b) by deleting subsections (9), (10) and (11) and renumbering the remaining subsections accordingly;

(c) in the new subsection (10) (b) by deleting the words "If a registered share" as they appear in paragraph (b);

(d) in the new subsection (10) by deleting paragraph (c) in its entirety.".

11. **Amendment of Section 55.**

Section 55 of the Principal Ordinance is amended by deleting subsection (2) and renumbering the remaining subsections accordingly.

12. **Amendment of Section 60.**

Section 60 of the Principal Ordinance is amended in subsection (2) paragraph (f) by deleting the words "unless the charge is a security for bearer" as they appear in paragraph (f).

13. **Amendment of Section 85.**

Section 85 of the Principal Ordinance is amended by deleting subsection (4) in its entirety and renumbering the following subsections (5) and (6) as (4) and (5).

14. **Amendment of Section 93.**

Section 93 of the Principal Ordinance is amended in subsection (1) by deleting the words "and of holders of bearer shares" as they appear in the first line.

15. **Amendment of Section 94.**

Section 94 of the Principal Ordinance is amended as follows:

(a) in subsection (1) by deleting the words "and every holder of bearer shares" as it appears in that subsection.

(b) by deleting subsection (8) in its entirety and renumbering the remaining subsections accordingly.

16. **Amendment of Section 101.**

Section 101 of the Principal Ordinance is amended as follows:

(a) by deleting the Section heading and replacing it with the following:

"101. Documents to be kept by the corporation"

(b) by deleting subsection (1) and replacing with the following new subsection:

"(1) A corporation shall keep correct and complete copies of the following documents:

(a) the Articles of Incorporation;

(b) the register of shareholders which contains the names, addresses, number and class of shares held by each shareholder and the dates when they respectively became the owners of record;

(c) the register of directors which contains the name and address of each director;

(d) a register of beneficial owners which contains the name and address of each beneficial owner;

(e) minutes of meetings of shareholders and actions taken on consent by shareholders;

(f) minutes of the meetings of the board of directors and action taken on consent by the directors;

(g) copies of all notices and other documents filed by the corporation;

(h) minutes of meetings of committees, if any;

and may provide copies of such documents to the registered agent for maintenance at the registered office of the corporation."

(c) by deleting subsection (2) and replacing it with the following new subsection:

(2) Where a corporation keeps a copy of the register of shareholders or the register of directors at the office of its registered agent, it shall:

(a) within 15 days of any change in the register, notify the registered agent in writing of the change, and

(b) provide the registered agent with a written record of the physical address of the place or places at which the original register of shareholders or the original register of directors is kept.

(d) by deleting subsection (3) and replacing it with the following new subsection:

(3) Where the place at which the original register of shareholders or register of directors is changed, the corporation shall provide the registered agent with the physical address of the new location of the records within 15 days of the change of location.

(e) by adding a new subsection (5) as follows:

(5) Any information and records required to be kept and maintained at the office of the registered agent under this section shall be maintained for a minimum of six (6) years after the date on which the corporation is dissolved or otherwise ceases to exist.

(f) by adding a new subsection (6) as follows:

(6) a corporation that contravenes subsections (1), (2), (3) or (5) shall be liable to a penalty not to exceed $10,000.00.".

17. **Amendment of Section 102.**

Section 102 of the Principal Ordinance is amended by repealing the entire section and replacing it as follows:

"102. Prohibition against bearer shares.

(1) A corporation shall not, with effect from the date of coming into force of this Ordinance:

(a) issue a bearer share;

(b) convert a registered share to a bearer share, or

(c) exchange a registered share for a bearer share.

(2) Where prior to the coming into force of this Ordinance, a corporation had:

(a) issued a bearer share;

(b) converted a registered share to a bearer share; or

(c) exchanged a registered share for a bearer share,

then that corporation shall have a period of 6 months from the date of coming into force of this Ordinance to convert the issued, converted or exchanged bearer share to a registered share.

(3) Where the provisions of subsection (2) are not complied with within 6 months from the coming into force of this Ordinance then all issued and outstanding bearer shares shall be automatically converted to registered shares upon the expiration of the 6 months from the coming into force of this Ordinance.

(4) The Bylaws of a corporation shall be deemed to be amended from the effective date of this Ordinance to state that the corporation is not authorised to issue bearer shares, convert registered shares to bearer shares or exchange registered shares for bearer shares.

(5) An authorised custodian who has custody of existing bearer shares in respect of a corporation shall, within 3 months of the effective date of this Ordinance, surrender the bearer shares to the corporation and give notice of such surrender to:

(a) the registered agent;

(b) the owner of the bearer shares; and

(c) any other person who has an interest in the bearer shares.

(6) An authorised custodian shall, at the time of surrendering the existing bearer shares pursuant to subsection (5), provide a written statement to the corporation and the registered agent:

(a) stating the full name of the beneficial owner of the bearer shares;

(b) stating the full name of any other person having an interest in the bearers shares, whether by virtue of a charge on the shares or otherwise;

(c) indicating the fact that no other person has an interest in the bearer shares; and

(d) stating such other information that is in the custody of the authorised custodian in relation to the bearer shares.

(7) A registered agent shall retain the records containing bearer shares information for a period of 5 years from the effective date of this Ordinance.

(8) A person who contravenes subsections (5) and (6) shall be liable to a penalty not to exceed $10,000.00.

18. **Amendment of Section 142.**

Section 142 of the Principal Ordinance is amended by deleting the section in its entirety and replacing it with the following new Section 142:

(1) A corporation found in default of one or more of the provisions of this Ordinance for which no specific penalty is applicable, shall be liable to a penalty not exceeding $10,000.00.

(2) An individual found in default of one or more of the provisions of this Ordinance for which no specific penalty is applicable, shall be liable to a penalty not exceeding $10,000.00.

HONOURABLE MICHELLE SLACK-CLARKE
President

Passed by the Nevis Island Assembly this 24th day of August, 2023.

MYRA WILLIAMS (MS)
Clerk of the Nevis Island Assembly

GOVERNMENT PRINTERY
ST. KITTS, W. I.