

# LATIN AMERICAN COUNCIL NYSBA

## ARTICLES OF INCORPORATION

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### I.

#### NATURE OF THE COUNCIL AND RELATIONS WITH NYSBA

The Latin American Council shall be a Super Chapter of the NYSBA International Section, and as a result, there are no additional registration requirements. Lawyers that wish to become active members of the Latin American Council must register with the NYSBA International Section.

As a Super Chapter of the International Section, the Latin American Council shall be subject to the rules and regulations that govern the NYSBA International Section Chapters and shall be under the general oversight of the NYSBA International Section Executive Committee.

### II.

#### ADDRESS

The Latin American Council shall have the same domicile as the NYSBA, at One Elk Street, Albany, New York, the United States, but shall be able to change its address to any other location, as well as to establish headquarters, branches, agencies, establishments, extensions or offices in the country or abroad; and will be able to change its domicile when deemed convenient for the development of its activities as approved by the NYSBA International Section Executive Committee.

### III.

#### TERM

The term of the Latin American Council shall be unlimited, and shall commence on the date of approval of these Articles.

### IV.

#### NAME

The name of the Latin American Council shall be "**CONSEJO LATINOAMERICANO-NYSBA**", and may also use the short form "Consejo Latinoamericano", or in English "**LATIN AMERICAN COUNCIL-NYSBA**", and its short forms "Latin American Council" or "LATAM Council".

### V.

## MISSION STATEMENT, OBJECTIVES AND VALUES

- (A) **Purpose:** The main purpose of the Latin American Council is: “To promote, advance and support values and principles of ethics, integrity and the rule of law, throughout Latin American and the Caribbean, with emphasis on anticorruption, public and corporate responsibility, best practices, and any other matters that the Council may decide from time to time related to the purpose set out herein.”
- (B) **Values:** To achieve its purpose, the Latin American Council shall enshrine the following values and principles:
- a. Diversity.
  - b. Integration.
  - c. Solidarity.
  - d. Transparency.
  - e. Accountability.
- (C) **Objectives:** The main objectives of the Latin American Council include the following:
- a. Education and training of the legal community (lawyers, students, judges, public officers and others) in Latin America and the Caribbean on transparency in the practice of the legal profession, following best practices and public and corporate responsibility.
  - b. Promotion of legal reforms and public policies in the Latin American region to support the fight against corruption, public and corporate responsibility and the rule of law.
  - c. Establishment of alliances with international entities which main goals are consistent with those of the Latin American Council in order to provide joint support to common objectives; to cooperate with the issuance of indexes to raise awareness of topics of interest to the Latin American Council, and to look for financial support for regional projects that may be implemented to achieve the objectives and purpose of the Latin American Council.

- d. Implementation of strategies to strength the rule of law by instilling best practices among the law professionals, through bar associations or similar organizations, law firms and other entities that have or share the Latin American Council's objectives.

In general, the objective of the Latin American Council is to strengthen the rule of law and to support anticorruption practices and politics in Latin America and the Caribbean through mechanisms and strategies that may be set from time to time by the Latin American Council with the goal of making Latin America and the Caribbean a region that protects investments, and promotes conditions of transparency and a positive business environment.

## **VI.**

### **MEMBERS**

The Latin American Council shall have an open membership, not limited to any region or nationality; provided that any individual interested in joining the Latin American Council will have to fulfill the following minimum requirements:

- a. Be a member of the NYSBA International Section;
- b. Be a licensed lawyer of good reputation and in good standing;
- c. Have an interest in the Latin American region; and
- d. Pay the membership fees that the NYSBA International Section requires to participate and be a member of the Latin American Council.

## **VII.**

### **RIGHTS OF THE MEMBERS**

The rights of the members of the Latin American Council will be as follows:

- a. Participate with voice and vote in Ordinary and Extraordinary General Assembly meetings, congresses, conferences and meetings held by the Latin American Council upon duly notice in advance;
- b. Propose to the Latin American Council through the General Assembly or its administrative authorities an action, management or activity plan consistent with the objectives, purpose and scope of the Latin American Council; and

- c. To apply for membership in the Leadership Committee or to become a Country Delegate, as long as the applicant fulfils the requirements for such position.

## VIII.

### GENERAL ASSEMBLY

- (A) **Nature:** The General Assembly formed by all of the members of the Latin American Council is the supreme authority of the Latin American Council authorized to act in matters within its competence.
- (B) **Type of Assemblies:** The General Assemblies of the Latin American Council will be of two classes:
  - a. **Ordinary General Assemblies:** The Ordinary General Assembly formed by all members affiliated to the Latin American Council shall be held at least once a year and at any other time for which it is called and shall have the authority to:
    - i. approve the annual budget of the Latin American Council proposed by the Leadership Committee in order to be submitted to the NYSBA Executive Committee;
    - ii. approve the Leadership Committee managements reports;
    - iii. appoint the members of the Leadership Committee as provided in Article IX;
    - iv. approve the appointment of Country Delegates as provided in Article XII;
    - v. approve any amendments to these articles of formation and any future modifications thereto;
    - vi. approve the dissolution of the Latin American Council as provided in Article XIII (Dissolution); and
    - vii. decide upon any other matter included in the corresponding notice of meeting.
  - b. **Extraordinary General Assemblies:** Shall be held at any time and shall have the authority to decide any affair for which the Extraordinary General Assembly meeting is called and that, due to the matter's nature, the meeting has to be held as soon as possible.

- c. **Place and Date for the Assemblies:** The assemblies shall be held in the place and date set out in the notice of meeting issued by the Leadership Committee, and may be held in any country without limitation. The meetings may be held by its members in person or by conference calls or other means of communication that would allow knowing the items in the agenda, and its deliberations and resolutions. Minutes of meetings must be produced and disseminated among all the members of the Latin American Council, by international courier, telegram, facsimile, electronic mail or any other medium that allows communication to all the members of the Latin American Council. If it is not possible to finish the agenda approved by the General Assembly, such General Assembly may agree its continuation in the immediate following days until the agenda is concluded.
- d. **Call:** The Ordinary and Extraordinary General Assemblies may be called by the Leadership Committee by its own initiative, and upon a request by no less than 10% of the Latin American Council members.
- e. **Quorum:** In order for the Ordinary General Assembly to be validly held at least 25% of the members of the Latin American Council must be represented. In order for an Extraordinary General Assembly to be validly held, at least 50% of the members of the Latin American Council must be represented.

In the event of absence of any of the Latin American Council members, any of the attending members may represent one or more members in the Ordinary General Assemblies or in the Extraordinary General Assemblies by delegation made by proxy sent by fax, electronic mail, or similar means, with no need to have it formalized or legalized to be effective at any of the Assembly meetings.

- f. **Direction of the Assemblies:** The General Assembly, be it Ordinary or Extraordinary, shall be presided by any of the members of the Leadership Committee; in their absence the Assembly itself shall designate a member to lead it. The Secretary of the General Assembly, Ordinary or Extraordinary, shall be the Secretary of the Leadership Committee or, in her absence, the member so appointed by the Assembly.

- g. **Resolutions:** The resolutions of the General Assembly will be adopted by majority and shall be binding to all members as of the approval date, even to those members that were not present during the session in which such resolutions were adopted and to those that voted against them.

## IX.

### LEADERSHIP COMMITTEE

- (A) **Integration:** The Leadership Committee shall consist of Five (5) members appointed by the General Assembly as follows:
  - a. one (1) President;
  - b. four (4) Vice-Presidents; and
  - c. one (1) Secretary who shall be selected from among the Vice-Presidents.Three (3) members of the Leadership Council shall be appointed as representatives of the Latin American Council before the NYSBA International Section Executive Committee.
- (B) **Requirements:** The requirements to be a member of the Leadership Committee are:
  - a. Be a licensed lawyer of good reputation and in good standing;
  - b. Have an interest in the Latin American region;
  - c. Be a partner in a Law Firm or “In-House Counsel”; and
  - d. Have time available to dedicate to the Leadership Committee.
- (C) **Term:** The term of the members of the Leadership Committee will be (2) two years, and the positions may be filled under a rotation or ratification system as the case may be. Unlimited reelection is permitted.
- (D) **Absences:** In the event of temporary or permanent absences of any member of the Leadership Committee, the other members shall appoint another member to substitute such absent member.

- (E) **Member Duties:** It is mandatory for the members of the Leadership Committee to attend meetings called from time to time. Active participation of members in leadership positions is essential and mandatory.
- (F) **Member appointment and removal:** The General Assembly has the authority to appoint and remove the members of the Leadership Committee; in the latter case the General Assembly shall appoint the substitute to complete the term of the removed member. Every member that, by reason of their membership, obtains a profit or personal benefit that is contrary to the purpose and objectives of the Latin American Council, must inform the Leadership Committee of that event in order for the Leadership Committee to take the appropriate actions.
- (G) **Leadership Committee Sessions:** The Leadership Committee will meet as frequently as its members deem necessary by a meeting notice issued in advance indicating the date, time and purpose of the meeting. Such sessions may be held by its members in person or by conference call or other means of communication that would allow knowing the items in the agenda, and its deliberations and resolutions. Minutes of meetings must be produced and disseminated among all the members of the Leadership Committee. The agenda and agreements will be documented and disseminated by physical or electronic means as convenient, considering the complexity and relevance of the topics discussed.

If a member of the Leadership Committee cannot attend a meeting in person or by conference call, such member will be allowed to send a representative on his/her behalf who shall be appointed in writing and such appointment must be presented at the meeting by any of the means set out in the Assembly Quorum sub-section. The representative shall have the right to attend and participate in the Leadership Committee meeting but shall not have the right to vote.

If a member of the Leadership Committee is repeatedly absent, the Leadership Committee shall have the authority to invite another member of the Latin American Council as a substitute for the remainder of the term, with the obligation to attend meetings for the remainder of the term.

- (H) **Resolutions:** The meetings of the Leadership Committee require the presence of the majority of its members to be valid; the resolutions of the Leadership Committee must be

approved by the majority of the members present at the meeting. The President shall have decisive vote in the event of a tie in the votes. The resolutions shall enter into force at the moment of their adoption unless a later date for their entry into force has been set in the session or in order to comply with special requirements of the NYSBA by-laws or if required by the Latin American Council.

- (I) **Authority of the Leadership Committee:** The Leadership Committee shall have the authority to:
- a. appoint from its members the representatives of the Latin American Council before the NYSBA International Section Executive Committee;
  - b. establish and carry out the policies and projects of the Latin American Council to achieve its objectives;
  - c. prepare and present to the General Assembly for its approval the management report of the Leadership Council for the preceding year; and
  - d. prepare and present to the General Assembly for its approval the draft annual budget of the Latin American Council for its subsequent submission to the NYSBA International Section Executive Committee.
- (J) **Reports:** The Leadership Committee shall disseminate among all the affiliated members of the Latin American Council, at least thirty (30) days in advance to the annual Ordinary General Assembly, a report of the projects and objectives achieved and any other document or data necessary for the proper understanding of any matter included in the agenda of such Ordinary General Assembly. The members of the Latin American Council shall send their comments to the report, if any, at least fifteen (15) days in advance to the date of the Ordinary General Assembly.

## X.

### RESTRICTIONS

- (A) The Latin American Council and its members will not have the authority to act on behalf of NYSBA, except in those cases in which the NYSBA International Section Executive Committee authorizes it; nor will they be able to incur in any liability or obligation in the name of the NYSBA without the express authorization of such Executive Committee.



- (B) The Latin American Council or its members cannot solicit funding or moneys from commercial banks without the prior authorization of the NYSBA International Section Executive Committee.
- (C) The Latin American Council and its members are not authorized to conduct or participate in any political activity or to support any political party on behalf of the Latin American Council.
- (D) The NYSBA's logo shall only be used as approved by the Executive Committee or with the approval of the NYSBA International Section Chair.

## XI.

### FINANCING AND ADMINISTRATION

The NYSBA International Section shall have total control of the Latin American Council finances, meaning that the NYSBA Executive Committee shall approve in advance the manner in which funds will be raised and the use of such funds. Moreover, the funds shall be placed in a NYSBA account and allocated in the NYSBA International Section Budget. The funds pertaining to the Latin American Council shall be used only for the purposes approved by the NYSBA Executive Committee.

## XII.

### COUNTRY DELEGATES

- (A) **Appointment:** The Latin American Council shall appoint Country or Regional Delegates from each country or region represented in the Latin American Council. The members of each country represented in the Latin American Council by simple majority shall choose from amongst themselves the Country Delegates of their respective country subject to the following rules:

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- a. each country or region shall not have more than three (3) Delegates;
- b. each country or region may decide if the Delegates will rotate, and if so, the term of the rotation; and
- c. Once the members of a country select their Country Delegates, they shall notify the Leadership Committee of the appointment.

- (B) **Requirements:** The requirements to be a Country Delegate shall be the same as those for becoming a member of the Leadership Committee.
- (C) **Faculties:** The Country Delegates shall have the following duties:
- a. Be the direct link between their country or region and the Latin American Council;
  - b. Be the group of lawyers or individual lawyer that represents the Latin American Council in their region or country;
  - c. Be involved in, get informed and updated about relevant matters of their country and keep the Latin American Council informed of the same; and
  - d. Be an influential voice of change in their country.
- (D) **Member Duties:** It is mandatory for the Country or regional Delegates to attend Ordinary and Extraordinary General Assemblies, as well as any meetings called by the Leadership Committee from time to time. Active participation of Country Delegates is essential and mandatory.
- (E) **Resignation and Replacement:** Country Delegates must inform the Leadership Committee and the Latin American Council members of their country in writing of their decision to resign from their position of Country Delegate at least thirty (30) days in advance of the date that the resignation becomes effective. In these cases the country members shall designate the member that will replace the Country Delegate within said thirty (30) day period. If the resignation must become effective before thirty (30) days have elapsed from the date of notice and the country members have not yet appointed a new Country Delegate in substitution of the resigning member, the Leadership Committee shall appoint as interim Country Delegate the President of NYSBA International Section Chapter for that country who will serve in that capacity until the country members appoint the definitive Country Delegate.

### **XIII.**

#### **DISSOLUTION**

The Latin American Council can be dissolved for the following causes:

- a. impossibility to continue its purpose or if such purpose has been accomplished;

- b. by a resolution of the General Assembly, such resolution requiring the presence in the meeting of at least sixty five percent (65%) of the Latin American Council active members, and it has to be authorized by the NYSBA International Section Executive Committee; and
- c. if the NYSBA decides that the Latin American Council cannot continue functioning as a Super Chapter of the NYSBA International Section.

The Latin American Council is not authorized to initiate new projects or activities after the dissolution agreement date.

#### **XIV.**

#### **DISCREPANCIES RESOLUTION**

The participants agree that any conflict, dispute or claim related to the application, interpretation, and/or performance of these articles of formation, during its validity as well as after its termination for any cause, shall be solved through conciliation. If there is no agreement after twenty (20) working days, the dispute shall be solved through the mechanisms established to that effect by the NYSBA International Section Executive Committee, and in any case subject to the NYSBA decision on the matter.

#### **XV.**

#### **CODE OF CONDUCT**

Every member of the Leadership Committee is subject to the provisions of the NYSBA Code of Conduct (<http://www.nysba.org/workarea/DownloadAsset.aspx?id=28622>) and its respective restrictions against lobbying.

#### **XVI.**

#### **ACCEPTANCE:**

The parties accept the content of these articles of formation of the LATIN AMERICAN COUNCIL-NYSBA, and what is set out in all and each of its clauses, confirming that these articles can be modified only by a resolution of the General Assembly approved by a special majority of sixty-five percent (65%) of votes of the Latin American Council members.

#### **XVII.**

### **INTERIM PROVISIONS:**

The members of the Latin American Council agree to appoint as members of the Leadership Committee for the first two (2) year term the following individuals:

- a. Ruby María Asturias Castillo, who will have the Position of President.
- b. Juan Manuel Trujillo, who will have the position of Vice-President.
- c. Ernesto Cavelier, who will have the position of Vice-President.
- d. Guillermo Francisco Peroni, who will have the position of Vice-President.
- e. France Tenaille, who will have the position of Vice-President, and who will also have the position of Secretary of the Leadership Committee.

The members of the Latin American Council appoint as Country Delegates the following individuals:

Name	Country
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