

**Companies and Intellectual Property Commission
Republic of South Africa**

Form CoR 18.1

About this Form

- This form is issued in terms of Schedule 2 of the Companies Act, 2008 and Regulation 18 of the Companies Regulations, 2011.
- All documents referred to in the application must be attached to this form when filed.
- The fee for filing this Notice is equivalent to the fee for filing a Notice of Incorporation. See item 3 of the table CR 2B. However, the fee is waived if the conversion application is filed within 3 years after the effective date.

**Contacting the
Commission**

The Companies and Intellectual
Property Commission of South Africa

Postal Address

PO Box 429
Pretoria
0001
Republic of South Africa
Tel: 086 100 2472

www.cipc.co.za

Application to Convert a Close Corporation

Date: _____

Customer Code: **(1)** _____

Concerning:

(2) *(Name and Registration Number of Close Corporation)*

Name: _____

Registration No: _____

The above named Close Corporation, which was incorporated in terms of the Close Corporations Act, 1984 on *(insert date)* **(3)** _____ applies to convert to a company, in terms of Schedule 2 of the Companies Act, 2008, and to be registered as a as a *(insert type of company)* **(4)** _____.

In support of this application, the Close Corporation declares that:

1. The corporation's members have consented to this application, as evidenced by the written statements of consents, attached. **(5)**
2. The members who have consented to this application hold, in aggregate, at least 75% of the members' interest in the Close Corporation, as evidenced by the attached statement of members' interest. **(6)**
3. The initial Directors of the company will be as set out on the attached list. **(7)**
4. The Close Corporation is not in liquidation or subject to an application therefore, is not engaged in business rescue proceedings, is not subject to an approved plan or court order comparable to a business rescue plan, is not subject to a compromise or similar arrangement with any creditor and, immediately following the conversion, the company will satisfy the solvency and liquidity test set out in section 4 of the Act. **(8)**

In further support of this Notice, the corporation has attached a copy of its Memorandum of Incorporation, and other relevant evidence of the facts declared above. **(9) (10)**

(11)

Name and Title of person signing on behalf of the Corporation:

Authorised Signature:

**Companies and Intellectual Property Commission
Republic of South Africa**

**EXPLANATORY NOTES FOR CONVERSION OF CLOSE CORPORATION TO COMPANY –
CoR18.1**

This explanatory note is only a guide on how to complete the indicated documents in a step by step manner and it may not contain all detail that is required. Further, the forms may be amended from time to time and therefore, the CIPC is not liable for any error or misrepresentation made in these explanatory notes and subsequent loss or damage suffered by any party.

(1) Customer Code (CoR18.1)

Valid customer code must be used and must be the same as the customer code under which the name reservation was approved (if applicable).

(2) Name and Registration Number of Close Corporation

The name and registration number of the close corporation that elects to convert to a company must be provided.

(3) Close Corporation Incorporation Date

The date on which the close corporation was initially incorporated must be provided.

(4) Company Type

Conversion of close corporation to profit company

In terms of Section 2 of Schedule 1 of the Companies Act, 2008 ("the Act") a close corporation cannot convert to a non profit company and therefore, a close corporation can only convert to a private, public, personal liability or state owned company.

Conversion of close corporation to external company

It is also inherently prohibited by the Act, that a close corporation convert to an external company and therefore, the close corporation must first convert to a profit company whereafter it may convert to an external company by filing a CoR40.2 and following the requirements and procedure stated within section 82(5) of the Act and Company Regulation 40(7).

(5) and (6) Written Statement of Consent and Member's Interest

This may take the form of a written resolution or minutes (accompanies by the agenda/notice of the meeting) of the meeting at which the decision was taken. The resolution or minutes must clearly indicate the decision to convert to a company and that that the members' who approved the decision holds an aggregate of 75% of the members' interest. Therefore, the resolution and minutes must indicate the interest of each member who approved and disapproved the decision.

The CIPC must either receive the original or a certified copy of the resolution or minutes.

(7) Initial Directors

The detail of the initial directors must be filed on a CoR39. It should be noted that the members of the close corporation does not have to accept the appointment of a director at conversion.

For further detail on the information required on the CoR39, kindly refer to the explanatory note for such form.

(8) Financial State of Close Corporation

At the time of conversion the close corporation must be solvent and therefore may not be engaged in liquidation or business rescue proceedings. If the close corporation is engaged in any of these proceedings, the application to convert will be rejected pending the finalisation of such proceedings.

Companies and Intellectual Property Commission Republic of South Africa

(9) Memorandum of Incorporation (MOI)

The close corporation must file the company's MOI at conversion that may take the form of CoR15.1A or B. The incorporators section on the CoR15.1A or B may be ignored for purposes of the conversion.

(10) Supporting Documents to Facts of Conversion

All forms filed with the CoR18.1 must be completed using the name the company would use after conversion.

The conversion application must be filed on a CoR18.1 and must include the following forms or documentation,

- Original or certified copy of the written resolution or minutes (accompanied by the agenda/notice) of the meeting at which the decision to convert was taken. The resolution or minutes must clearly indicate the decision to convert to a company and that the members' who approved the decision holds an aggregate of 75% of the members' interest. Therefore, the resolution and minutes must indicate the interest of each member who approved and disapproved the decision.
- CoR39 to appoint initial directors
- Certified identity copies of directors
- Written statement in the form of a letter that the close corporation is not in liquidation or engaged in business rescue proceedings
- Memorandum of Incorporation that may either take the form of a CoR15.1A or B or alternatively the company's own Memorandum of Incorporation. If CoR15.1A or B is used, reference to incorporators on the form may be ignored for purposes of the conversion.
- If a change in registered office – CoR21.1.
- If a change in financial year end – CoR25.
- If a change in auditor or the appointment of an auditor – CoR44.
- If a change in company secretary or the appointment of a company secretary – CoR44.
- If a change in audit committee members or the appointment of an audit committee – CoR44.
- If a change in name – CoR9.4 (reserved name) or CoR9.1 but it is advisable to file with the name already approved since the conversion application will only be processed once the name has either been approved or rejected and CoR9.1's received with conversion applications does not receive preference.

If the above is not filed, the existing statutory information of the close corporation will be retained for the company.

(11) General

Prescribed fee of conversion application

For the first 3 years after the implementation of the Act (1 May 2011) there is no prescribed fee for filing the conversion application but after such period such will be the same as for filing a Notice of Incorporation which is dependent on the type of CoR15.1 used.

If additional forms are filed to amend the statutory information of the company, such prescribed fee for such form is applicable.

Effect of conversion

Members of the close corporation are entitled to take up shareholding of the company but such does not have to be in proportion to their member's interest in the close corporation and members are also not mandated to be directors of the company.

At conversion, a juristic person that existed as a close corporation before the conversion, continues to exist but in the form of a company. Further, at conversion all assets, liabilities, rights and obligations that vested in the close corporation or between the close corporation and its member, creditors or any third party continues to exist as if the conversion did not occur.

Accounting Officer or Auditor

Upon conversion the appointment of an accounting officer is automatically terminated and therefore, if the same accounting officer will be used by the company to conduct an independent review (if provided for) in terms of Companies Regulation 29, then the company must reappoint the accounting officer. In this regard no formal notification of the appointment is required.

If a company is a public or state owned company or voluntarily elects to appoint an auditor, a CoR44 must be filed at conversion.

**Companies and Intellectual Property Commission
Republic of South Africa**

Annual Returns

At time of conversion all annual returns for the close corporation must be up to date.

Compiled by Christa Klokov

Version 1.0