

BELIZE:

BELIZE INTERNATIONAL SERVICES LIMITED
(SETTLEMENT) ACT, 2022

ARRANGEMENT OF SECTIONS

1. Short title.
2. Interpretation.
3. Validation of Government's authority.
4. Payments payable from the Consolidated Revenue Fund.
5. Financial Secretary authorized to make payments.
6. No deductions in payments.
7. Extent of exemptions.

SCHEDULE



No. 18 of 2022

I assent,

(H.E. MS. FROYLA TZALAM)
Governor-General

1st September, 2022.

AN ACT to facilitate the implementation of the terms of a deed of settlement between the Government and Belize International Services Limited arising from the debt owed by the Government in satisfaction of the Belize International Services Limited claims and the Belize International Services Limited litigation costs; and to provide for matters connected therewith or incidental thereto.

(Gazetted 2nd September, 2022).

BE IT ENACTED, by and with the advice and consent of the House of Representatives and Senate of Belize and by the authority of the same, as follows:

1. This Act may be cited as the

Short title.

BELIZE INTERNATIONAL SERVICES LIMITED
(SETTLEMENT) ACT, 2022.

Interpretations.

2. In this Act, unless the context otherwise requires–

“Belize International Services Limited Settlement Deed” means the Settlement Deed entered into between the Government of Belize and Belize International Services Limited dated the 22nd day of August 2022;

“Belize International Services Limited” or “BISL” means the company duly incorporated under the Laws of the British Virgin Islands, having its registered office at Craigmuir Chambers, Road Town, Tortola, British Virgin Islands;

“BISL payment” means the payment to be made by the Government to Belize International Services Limited pursuant to clause 4 of the Belize International Services Limited Settlement Deed; and

“Consolidated Revenue Fund” means the fund established under section 114 of the Belize Constitution.

CAP. 4.

Validation of
Government’s
authority.

3. It is hereby declared that the Government–

(a) has, with full lawful authority, entered into the Belize International Services Limited Settlement Deed, herewith attached in the Schedule; and

Schedule.

(b) is lawfully authorized to carry out its obligations as provided under the Belize International Services Limited Settlement Deed.

Payments
payable from
Consolidated
Revenue Fund.

4. All amounts which may become payable by the Government as the final payment as provided for in clauses 4 and 5 of the Belize International Services Limited Settlement Deed shall be a charge on the Consolidated Revenue Fund.

Financial Secretary authorized to make payments.

5. Subject to this Act and the Belize International Services Limited Settlement Deed, the Financial Secretary is authorised to pay the Belize International Services Limited at the times and on the terms as provided for in the said Belize International Services Limited Settlement Deed.

No deductions in payments.

6.-(1) As of August 22, 2022, it is declared that Belize International Services Limited does not owe any taxes, duties, fees or monies whatsoever to the Government or any department of the Government or other public entity in Belize.

(2) Payments made to Belize International Services Limited pursuant to the Belize International Services Limited Settlement Deed shall be made without any deductions whatsoever.

Extent of exemptions.

CAP. 52.

7. Belize International Services Limited shall be exempt from the provisions of the Exchange Control Regulations Act and Regulations made thereunder from time to time that would, but for this provision, apply in respect of the payments made to Belize International Services Limited pursuant to the Belize International Services Limited Settlement Deed.

SCHEDULE

[section 3]

SETTLEMENT DEED

22 AUGUST 2022

(1) THE GOVERNMENT OF BELIZE

And

(2) BELIZE INTERNATIONAL SERVICES LIMITED



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THIS AGREEMENT is made by way of deed on 22 August 2022 (the “**Deed**”).

BETWEEN:

- (1) **The Government of Belize** of Sir Edney Cain Building, Belmopan, Cayo District (and shall include, but not be limited to, all government ministers, government officials and government departments) (the “**Government**”) of the first part, and
- (2) **Belize International Services Limited**, a company duly incorporated under the Laws of the British Virgin Islands, having its registered office is at Craigmuir Chambers, Road Town, Tortola, British Virgin Islands (“**BISL**”) of the second part; (together the “**Parties**”, and each a “**Party**”).

WHEREAS:

- (i) on 11 June 1993, BISL entered into a Management Services Agreement with the Government relating to IMMARBE, an open shipping registry, and the IBCR, for the registration of international business companies under the International Business Companies Act (the “**Agreement**”);
- (ii) on 24 March 2005 BISL entered into an agreement with the Government extending the terms of the Agreement from 2013 to 2020 (the “**Extension Agreement**”);
- (iii) by a judgment dated 30 June 2020 in CCJ No. BZCV2019/003, the Caribbean Court of Justice (the “**CCJ**”) determined that the contractual arrangements between the Government and BISL, including the Extension Agreement, were lawful and enforceable, and that it had been breached by the Government, and
- (iv) the CCJ awarded damages to BISL, and these damages are to be assessed by the Belize courts;

NOW THEREFORE, the Parties agree that, in consideration of the execution of their respective obligations set out in the following terms and conditions, this Deed shall constitute a full and final settlement of the BISL Claims:

1. DEFINITIONS AND INTERPRETATION

1.1 Section headings are for convenience and are not to be considered in construing or interpreting this Deed. References to statutes include any amendment, re-enactment or extension of them. References to “Sections”, “Clauses”, “Sub-clauses” and “Schedules” are references to Sections, Clauses, Sub-clauses of and attachments to this Deed. The Schedules to this Deed are an integral part of this Deed and references to this Deed include references to the Schedules. Headings are for case or reference only and are not to be taken into account in construing this Deed.

1.2 In this agreement:

- (a) **BISL Litigation Costs** means the litigation costs incurred by BISL in connection with: (i) CCJ No. BZCV2019/003 and the courts below, and (ii) Supreme Court of Belize Claim No. 698 of 2013 and all interlocutory applications related thereto, in the amount of US\$878,893.66;
- (b) **BISL Claims** means the claims made in Claim No. 698 of 2013: Belize International Services Limited v Attorney General of Belize and any appeal therefrom and each and any claim, counter-claim, cause or right of action or proceedings, whether at law or in equity, of whatsoever nature and howsoever arising, in any jurisdiction whatsoever, whether secured,



proprietary, by way of tracing, priority or otherwise, whether by way of contribution or subrogation or otherwise, arising out of or in connection with the BISL Debt;

- (c) **Business Day** means a day when financial institutions are open for business in Belize and the United States;
 - (d) **Minister of Finance** means the Minister for the time being responsible for finance who has been assigned such responsibility under section 41 of the Belize Constitution, Cap.4; and
 - (e) **Month** means a calendar month.
- 1.3 Words denoting persons shall include bodies corporate and unincorporated associations of persons and any references to the singular shall include the plural and vice versa.
- 1.4 Any obligation on the Government is to be construed so as to include as an obligation on the Government to procure that all government ministers, government officials (including the Commissioner), government departments (including the Income and Business Tax Department) and administrative bodies that are directly owned and controlled by the Government, comply with the Government obligations under this Deed;
- 1.5 The headings in this agreement are for convenience only and do not affect its interpretation.

2. SETTLEMENT, RELEASE AND DISCHARGE

- 2.1 Subject to Clause 3 (Conditions Precedent) and the obligations under Clause 4 (Payment to BISL), BISL releases and discharges the Government from the BISL Claims and from all actions, proceedings, claims, costs, expenses and demands whatsoever related thereto.

3. CONDITIONS PRECEDENT

- 3.1 It shall be a condition precedent to Clause 2 (Settlement, Release and Discharge) becoming effective that the steps described in Sub-Clauses 3.2, 3.3 and 3.5 are taken and payment is made in accordance with Clause 4 (Payment to BISL).
- 3.2 The Government shall introduce into the House of Representatives and take all such steps and actions available to the Government under the law to procure the enactment of legislation and/or take such executive action as may be required by law to charge to the Consolidated Revenue Fund the BISL Debt, and to authorize through an Appropriation Act or Acts all payments to be made under this Deed (collectively, the "**Legislation**").
- 3.3 The Government shall introduce the Legislation to the House of Representatives and take such executive action as soon as reasonably practicable following the date of this Deed, and in any event no later than 45 days after the date of the Deed.
- 3.4 In the event that the Government does not comply with Sub-Clauses 3.2 and 3.3, this Deed shall be ineffective and terminate without the Parties being under any obligation to take any further step pursuant to the terms of this Deed.
- 3.5 In the event that the Legislation has not been enacted by Parliament, received the Governor General's assent, been published in the Gazette as law and entered into force all within 60 days of the date of this Deed, this Deed shall be ineffective and terminate without the Parties being under any obligation to take any further step pursuant to the terms of this Deed.

4. PAYMENTS TO BISL

- 4.1 No later than 70 days from the date of this Deed, the Government shall pay to BISL US\$32.5 million and BZ\$11.5 million in satisfaction of the BISL Claims and the BISL Litigation Costs (the “**BISL Debt**”) in full and without any set off whatsoever.
- 4.2 The Government shall pay the amount of the BISL Debt specified in Sub-Clause 4.1 to BISL in the prescribed currencies and into the bank accounts designated by BISL to the Government in writing.

5. INTEREST ON LATE PAYMENT

- 5.1 If the Government fails to pay the whole or any part of the BISL Debt to BISL pursuant to Clause 4, then interest shall accrue immediately on any unpaid amount until such amount is fully paid, at the rate of interest of 6% per annum compounded monthly.

6. LEGAL PROCEEDINGS

- 6.1 Within 3 Business Days of the publication in the Gazette of the Legislation (see Sub-Clause 3.5 above), BISL shall apply to the Belize Supreme Court for a Consent Order substantially in the form set out in Schedule 1 of this Deed, such application to be supported by the Government.
- 6.2 Within 3 Business Days of the receipt of full payment of the BISL Debt in the bank accounts specified by BISL pursuant to Sub-Clause 4.2, BISL shall file and serve a Notice of Discontinuance for the whole of ‘Claim No. 698 of 2013: Belize International Services Limited v Attorney General of Belize’ with the Belize Supreme Court in accordance with Part 37 of the Belize Supreme Court (Civil Procedure) Rules. The Notice of Discontinuance shall be in the form set out in Schedule 2 of this Deed. There shall be no liability for costs.

7. REPRESENTATIONS AND WARRANTIES

- 7.1 The Government represents and warrants to BISL that:

(a) the execution, delivery and performance of this Deed:

- i. are its legal, valid and binding obligations, enforceable against it by BISL in accordance with its terms, and that it has all powers, authorities, consents and approvals necessary to enter into this Deed;
- ii. save as otherwise contemplated in Sub-Clauses 3.2, 3.3 and 3.5, has been duly ratified by all necessary constitutional and legal action;
- iii. does not contravene any of its duties or obligations, any material indenture, mortgage, trust deed, bond or other instrument or agreement to which it is bound, or any award, order, judgment, regulation, injunction, resolution, determination or other ruling of any court or governmental authority, agency or instrumentality which is binding on it; and
- iv. does not constitute or result in (even if notice is given, time elapses or both) a default, event of default or event of acceleration under any contract which is binding on or affecting it;

(b) it has taken or will take in accordance with Sub-Clauses 3.2 and 3.3, all action required by law, regulation, or policy required to authorize the execution, delivery and performance of this Deed;

(c) the undersigned party executing this Deed on behalf of the Government has been duly authorized to execute and deliver this Deed;



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- (d) it is not in violation or breach of, or in default under, any law, rule or regulation, any duty or obligation, or any indenture, mortgage, trust deed or other instrument or Deed to which it is bound, so as to materially and adversely affect in any of the foregoing instances, its ability to perform its obligations hereunder; and, as of the date of this Deed, there is no pending or, to its knowledge, threatened action or proceedings affecting it before any court, governmental agency or arbitrator which may materially and adversely affect its assets, financial condition, affairs or its ability to either execute, deliver or perform (or the ability of BISL to enforce) this Deed;
- (e) it will co-operate in all respects to the end that all matters contemplated by this Deed will be consummated; and
- (f) BISL does not owe any taxes, duties, fees or monies whatsoever to the Government or any department of the Government or other public entity in Belize, and the payments to be made pursuant to Clause 4 above shall be made without any deductions whatsoever.

7.2 BISL represents and warrants to the Government that:

- (a) it has taken all action required by law to authorize the execution and delivery of this Deed, and this Deed is valid and binding in accordance with its articles of incorporation (or equivalent) and governing instruments;
- (b) the undersigned party executing this Deed on its behalf has been duly authorized by it to execute and deliver this Deed; and
- (c) it will co-operate in all respects to the end that all matters contemplated by this Deed will be consummated.

7.3 Without prejudice to any other remedy available to a Party or its ability to claim damages on any other basis which is available to it by reason of any of the warranties set out in this Deed being untrue, inaccurate or misleading, if any of the warranties is untrue, inaccurate or misleading the Party breaching its representation or warranty shall be liable for and shall pay an amount equal to the losses directly arising incurred or suffered by that Party, which would not have existed or arisen if the relevant representation or warranty had not been untrue, inaccurate or misleading.

8. NOTICES

8.1 Notices under this Deed must be in writing and will be deemed given when actually received if delivered by courier with written proof of delivery, by fax upon confirmation of successful transmission; or ten days after being sent by first class mail, return receipt requested, to the other Party at the address below:

(a) For notices to the Government:

To the address set forth on page I, marked "Attention: Prime Minister and Minister of Finance", with copies (which will not constitute notice) by email to "secretarypm@opm.gov.bz".

(b) For notices to BISL:

To the address set forth on page I, marked "Attention: Philip Osborne", with a copy (which will not constitute notice) by email to "wihlcosec@gmail.com".

8.2 A Party may change its address by giving the other written notice as described above.

9. REMEDIES AND WAIVERS

Handwritten signatures in black ink, including a stylized signature and the initials 'P10'.

9.1 No delay or omission on the part of any of the Parties in exercising any right, power or remedy provided by the law of any jurisdiction or under this Deed shall:

- (a) impair such right, power or remedy; or
- (b) operate as a waiver thereof.

10. ENTIRE AGREEMENT

10.1 This Deed and its Schedule and any other documents specifically incorporated herein by reference constitute the entire understanding and agreement between the Government and BISL, whether written or oral, with respect to the subject matter of this Deed and supersede any prior or contemporaneous agreements or understandings between the Government and BISL with respect to its subject matter.

11. AMENDMENTS

11.1 This Deed may not be amended or modified except by a written amendment signed by authorized signatories of the Government and BISL.

12. SEVERABILITY

12.1 If a court or tribunal of competent jurisdiction holds that any provision of this Deed is invalid or unenforceable, the remaining provisions will remain in full force and effect, and the Parties will replace the invalid or unenforceable provision with a valid and enforceable provision that achieves the original intent and economic effect of that provision.

13. COUNTERPARTS

13.1 The Government and BISL may execute this Deed in counterparts, each of which will be deemed an original, and all of which, collectively, will constitute only one agreement. Delivery of an executed counterpart by email or fax shall be as effective as executing and delivering this Deed in the presence of the other Party.

14. WAIVERS

14.1 A waiver of a condition or obligation under this Deed will be effective only if in writing and signed by the Party granting the waiver, and no such waiver will constitute a waiver of the satisfaction of any other condition or the non-performance of any other obligation.

15. GOVERNING LAW AND JURISDICTION

15.1 This Deed and any dispute or claim arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of Belize.

15.2 Each Party irrevocably agrees that the courts of Belize shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Deed or its subject matter or formation.

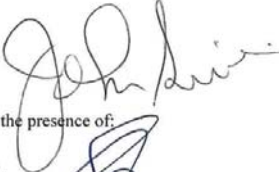
16. WAIVER OF IMMUNITY

16.1 Pursuant to clause 22 of the Agreement, the Government hereby waives with respect to this Deed and the BISL Debt, and any proceedings in connection therewith, any right to claim governmental or sovereign immunity from jurisdiction or execution or any similar defence.

IN WITNESS whereof the Parties hereto have caused this Deed to be duly executed on the date first written above.

FOR THE GOVERNMENT OF BELIZE

By the Prime Minister and Minister of Finance,



In the presence of:



Witness

FOR BELIZE INTERNATIONAL SERVICES LIMITED

By Philip Osborne, Director,



In the presence of:



Witness

P.O.

SCHEDULE 1

IN THE SUPREME COURT OF BELIZE A.D. 2013

CLAIM NO. 698 OF 2013

BETWEEN

(BELIZE INTERNATIONAL SERVICES LIMITED

(
(Claimant

(
(And

(
(THE ATTORNEY GENERAL OF BELIZE
Defendant

Draft/CONSENT ORDER

Dated the [] day of

Before the Honourable

UPON READING the Claimant’s Notice of Application dated the [] day of [] 2022 together with the Affidavit of [] sworn to on the [] 2022 and filed in support thereof and the Affidavit of [] sworn to on the [] 2022 on behalf of the Defendant in those appeals;

AND UPON HEARING the Claimant and the Defendant

AND UPON THE CLAIMANT AND THE DEFENDANT HAVING AGREED terms of compromise

IT IS BY CONSENT ORDERED THAT -

1. All further proceedings are stayed on the terms set out in the schedule except for the purpose of carrying such terms into effect without the need to bring a new claim and for that purpose the parties are at liberty to apply.

2. There shall be no order for costs.



SCHEDULE TO THE CONSENT ORDER

[The Settlement Deed will form the Schedule to the Consent Order.]

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SCHEDULE 2

IN THE SUPREME COURT OF BELIZE A.D. 2013

CLAIM NO. 698 OF 2013

BETWEEN

(BELIZE INTERNATIONAL SERVICES LIMITED

(

Claimant

(

(

And

(

(

(THE ATTORNEY GENERAL OF BELIZE

Defendant

NOTICE OF DISCONTINUANCE [Rule 37.3]

TAKE NOTICE that the Claimant, Belize International Services Limited, hereby wholly discontinues this claim against the Defendant, the Attorney General of Belize.

It is agreed that there shall be no liability as to costs.

I certify that I have served a copy of this Notice on every party to the proceedings.

DATED day of , 2022

COURTENAY COYE LLP Attorneys for the Claimant

To: Attorney General's Ministry 6120 Raccoon Avenue Belmopan Cayo, Belize Attorney for the Defendant

[Handwritten signature]