



*Charter:*

# HPT VIETNAM CORPORATION

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EDITION IV

Ho Chi Minh City, June 2015

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Ho Chi Minh City, June 2015

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# CHARTER

## HPT VIETNAM CORPORATION

**Pursuant to:**

- *The Law on Enterprise passed by the National Assembly of the Socialist Republic of Vietnam No. 68/2014/QH13, November 26<sup>th</sup>, 2014;*
- *Circular 121/2012/TT-BTC dated July 26<sup>th</sup>, 2012 of the Ministry of Finance regulating on enterprise operation for public ones;*
- *Securities Act of the National Assembly of the Socialist Republic of Vietnam No.70/2006/QH11 at 9th session from May 16 to June 29, 2006*
- *Decree No. 58/2012/ND-CP dated July 20<sup>th</sup>, 2012 providing detailed regulations and guidelines for implementation of some articles of the Law on Securities and the Law on amendment of some articles of the Law on Securities.*
- *The implementing regulations of the above legal documents and other applicable law and regulations of the Socialist Republic of Vietnam.*

# CHAPTER I

## GENERAL PROVISIONS

### Article 1. Scope of Liability

Each Shareholders of the Company are only liable for the Company's debts and other property obligations within the amount of capital contributed to the Company.

### Article 2. Establishment

#### 2.1 Establishment

- a. The company was established, this Charter changes some terms in comparison with the initial charter inception, this charter were approved by all members of the Board.
- b. Any subsequent Shareholders are unconditionally and irrevocably bound by the terms of this Charter.

#### 2.2 Name of the Company

- Name of the Company in Vietnamese:

**CÔNG TY CỔ PHẦN DỊCH VỤ CÔNG NGHỆ TIN HỌC HPT**

- Name of the Company in English:

**HPT VIETNAM CORPORATION**

- Abbreviated: **HPT**



- Logo:

- The company is a joint stock company with legal personality in accordance with the current law of Vietnam

#### 2.3 Office of the Company

- a. The initial Office shall be at 9th Floor, Saigon Paragon Building, 03 Nguyen Luong Bang Street, District 7, HCMC, Vietnam

- Tel: 84.8.54123400
- Fax: 84.8.54108801
- E-mail: [info@hpt.vn](mailto:info@hpt.vn)
- Website: [www.hpt.vn](http://www.hpt.vn)

- b. Address of Branches:

The Company may establish branches and representative offices in the areas of business to carry out the operational objectives of the Company in accordance with the resolutions of the Board of Directors and to the extent permitted by law.

### Article 3. Legal Status

#### 3.1 A Joint Stock Company

The company was established in the form of joint-stock company with independent legal personality and limited liability, exists and operates under the law and this Charter.

#### 3.2 Limited Liability

- a. Creditors of the Company are debt claims on the assets of the Company and has no debt claims on any shareholder, except a specified written agreement signed by the shareholders.
- b. In case that any shareholder does not fully paid for the shares committed to purchase, the other shareholders do not have any additional capital to the Company or to the Company representing additional capital under any form.



- c. Company is not responsible for any personal obligations, losses or expenses of any shareholder, if the individual obligations, losses or expenses occurred before the company exists.

#### **Article 4. Objectives and Scope of Business Activities**

##### **4.1 Objectives**

Provide and develop products and services in the fields of Information Technology, Electronics and Telecommunication, high-tech applications, human resources consulting and training... in order to maximize labor capacity and human creativity for the purpose of searching for high values on economic efficiency, improving material and spiritual life for HPT members, shareholders and contributing to the cause of building up prosperous Vietnam.

##### **4.2 Scopes of Business**

Information technology services and other services relating to computer. Details: Installation and technology transfer of Computer Network Systems. Internet Application Service Provider, storage services and information provision services.

Research and development of natural science and technical experiments. Details: Development and application of technology and science to the life.

Consultancy, broker, real estate auction, right of land use auction. Details: real estate broker services.

Market research and public survey. Details: Market research, market analysis services.

Wholesales of machineries, equipment and other spare parts. Details: Wholesales of medical machineries, equipment.

Production of software. Details: Supply of software applications. Production of software. Software services.

Computer and computer system administration consultancy. Details: Consultancy, design for computer systems (design, creation of internet website, design of computer system integrated hardware-software with telecommunication technology). Integration of local Area Network (LAN).

Other telecommunication services. Details: Provision of value added services on telecommunication network: data and information access services on the network, electronic exchange services (no internet provider services, electronic games in head office).

Repair of computer and peripheral devices. Details: Repair of: computer equipment, computers, office equipment.

Wholesales of electronic, telecommunication. Details: Purchase, sales of computer equipment, computers, office equipment. Purchase, sales of computer software, electronic equipment and components, telephones, telecommunication equipment, control equipment; information technology equipment and components, plotters, design aided equipment, materials and spare parts for printing industry, equipment for scientific research, laboratory.

Leasing machineries, equipment and other tangible items. Details: Leasing machineries, office equipment.

Other education which has not yet been classified. Details: Training and technology transfer. Vocational training.

Trading of real estate, right of land use of owner, user, and lessee. Details: Leasing houses, warehouse (except room for rent). Trading of houses. Trading of real estates (except price assessment services, real estate exchange).

Other supporting services relating to transportation. Details: Customs declaration services. Transport agent services.

Activities relating to accounting, auditing and tax consultancy. Details: Accounting services. Tax consulting services, financial consulting services (except for auditing services), investment consulting, and business management consulting.

Agent, Broker, Auction. Details: Sales and consignment agents.

##### **4.3 Powers of the Company**

The Company has the right to conduct activities which are beneficial to the Company or to the business which the Company is permitted to comply with the provisions of the law, including the following:

- a. Recruit, pay, discipline, reward and fire directors, managers and employees;
- b. Hire, assign, sign, or authorize any distributor, agent or contractor necessary for the business;
- c. Join the signing and implementation of any contract or commitment;
- d. Rent or legal ownership of buildings and have rights to use land, equipment, and all other assets;
- e. Lend or transfer rights to use land, equipment, and all other assets as these assets are no longer needed for operations;
- f. Rent or use all forms of necessary or useful services;
- g. Maintain banking relationships with all types of wherever financial institutions, including making loans or financial commitment to any financial institution in any currency in Vietnam or abroad;
- h. Borrow or lend, guarantee, rebate, commission and mortgage, pledge, make assurance rights, or create other assurance interests on any assets as a guarantee for loans or other commitments related to obligations of the company or the third parties;
- i. Conduct litigation or protect interests of the company in the litigation;
- j. Implement the profit distribution and manage the profits or losses, assets and debts and revenues from disposition of assets that the Company has right to self-determination;
- k. Reinvest the profits for the company benefit;
- l. Buy insurance for company;
- m. Use lawyers, accountants, consultants, agents, advisers, architects, engineers, and contractors to support the Company;
- n. Participate in transactions and activities related to the management of foreign exchange;
- o. Carry out the dissolution and liquidation of the Company assets upon the termination or end-time activities of the Company;
- p. Buy, rent, lease, sell, transfer and/or repair, in Vietnam and abroad, in any currency, all the equipment, software, publications, and any other documents, materials or other items needed for the business of the Company;
- q. Register and enforce intellectual property rights;
- r. Advertise and promote of the Company products;
- s. Request payment and payment for goods and services in U.S. dollars, any currency or monetary that the Board of Directors may decide in accordance with the law;
- t. Change the scope and content of Company activities at any time when the General Assembly of shareholders appreciates it necessary, provided that the consent of the State if the law provides;
- u. Use the lawful method of funding to do business;
- v. Establish a joint venture with Vietnam or foreign entities and invest the capital in Vietnam or other foreign Companies;
- w. Export and imports;
- x. Actively conduct and manage business operations and any applicable management practices which is necessary to perform these activities;
- y. Reject and denounce any proposal to provide funds in cash or any kind from any person that the law does not allow; and
- z. Perform all other legal activities and the implementation of all agreements, documents and other legal documents if necessary or required for the company target or business activities.

**Article 5. The duration of operation**

The duration of the company operation is 100 years and should be renewed by decision of the General Meeting of General Assembly of Shareholders, unless terminated in accordance with Article 35 of this Charter.

**Article 6. The legal representative**

General Director is the Legal Representative of the Company.

## **Chapter II**

# **CHARTER CAPITAL – SHAREHOLDERS – SHARES – SHARE CERTIFICATES**

### **Article 7. Charter Capital**

#### **7.1 Capital**

- The current share capital of the Company is 68.642.010.000 VND (Sixty-eight billion six hundred and forty-two million and ten thousand Vietnam dong).
- This capital is divided into 6.864.201 (Six million eight hundred and sixty-four thousand two hundred and one) shares.
- The company's shares at the date of this Charter adoption include 6.864.201 (Six million eight hundred and sixty-four thousand two hundred and one) common shares.
- Each share has a par value of 10.000 VND (Ten thousand Vietnam dong).
- The company may increase its charter capital when the General Assembly of Shareholders ratifies in accordance with the provisions of the law. The capital increase will be reflected in the certificate of business registration of the company at the time of increasing the capital.

#### **7.2 Use of the capital**

Charter capital will be used for business purposes of the Company and for other purposes approved by the General Assembly of Shareholders, or in appropriate cases, will be approved by the Board of Directors under the provisions of law and this Charter.

#### **7.3 Increase of the capital**

- a. Pursuant to the below paragraph (b), the Board of Directors may decide to issue additional shares by the release to the public or internal release with a condition that the price of the new shares, included issuance costs and other related costs, is not lower than the market price of the shares before the date of sale of each shares, except that the Board of Directors, under the law, may issue such shares with the maximum discount of 5%. Other cases should be consulted by the General Assembly of Shareholders. In the case that the company is not listed on the stock market, the market price of each share shall be honestly determined by the Board of Directors after reference to the appropriate expertise.
- b. Unless the decision is made by the majority vote of approval of the General Assembly of Shareholders, the Company should send a written notice to each shareholder to state kinds of issuance of shares, the price and the general terms of the issuance when the Company proposes to issue shares or other stocks, or bonds.
- c. The issuance of additional shares must comply with all provisions of the law and this Charter including the terms of price, payment method, transfer, assignment, right forfeiture or other conditions.

#### **7.4 Reduction of the capital**

The Charter Capital can be reduced by the method that amount and timing of capital reduction through the voting of the General Assembly of Shareholders, (including the acquisition of shares from shareholders corresponded to the percentage of shares that each Shareholders are holding). The reduction of the charter capital should comply with the law.

### **Article 8. Shares**

#### **8.1 Types of shares**

- a. The company has 6.864.201 (Six million eight hundred and sixty-four thousand two hundred and one) common shares. Owners of common shares are common shareholders.
- b. Each share has a par value of 10.000 VND (Ten thousand Vietnam dong).
- c. The number of shares is adjusted automatically when issuing new shares to be issued pursuant to Resolution of the General Assembly of Shareholders and in accordance with the law.

## **8.2 Voting rights of shares**

Each Share shall entitle the relevant Shareholder to one vote at Meetings of the General Assembly of Shareholders.

## **8.3 Payment of Shares, Bonds**

- a. Shares which are sold to a Shareholder by the Company must be paid for in full in one installment no later than 20 days after the relevant notice of sale unless otherwise stipulated by the Law.
- b. Any people to whom Shares are sold who fails to make payment for the Shares in accordance with this Charter shall not become Shareholders and shall not be recorded as Shareholders on the Register, nor issued with any Share Certificate.
- c. Payment for Shares may be made in cash in Vietnam Dong, freely convertible foreign currencies, gold or, if agreed by the Board, in kind.
  - i. If a payment for Shares is made in a foreign currency, it will be converted into VND at the buying rate applicable to that foreign currency offered by the State Bank of Vietnam on the date the payment is made.
  - ii. If a payment for Shares is made in gold, it will be converted into VND at the price for buying gold of equivalent quality against VND offered by a reputable Gold Trading Organization on the date the payment is made.
  - iii. If the payment for Shares is made in kind at the time of the establishment of the Company, the assets used for such payment shall be valued by agreement of all the Founding Shareholders in good faith and upon an appropriate and demonstrable basis. If the Founding Shareholders cannot agree on the value of such assets, a qualified auditing firm may be appointed by the Founding Shareholders to undertake the valuation.
  - iv. If the payment for Shares is made in kind at any time after the formation of the Board of Directors, the assets used for such payment shall be valued by the Board of Directors in good faith. In performing its duties, the Board may appoint a qualified auditing firm to provide a valuation.
- d. To the extent required by Law, payment for Shares shall be certified by written minutes setting out:
  - i. Name and address of the relevant Shareholder;
  - ii. Name and address of the Company;
  - iii. Description and value of the assets to be used for payment; and
  - iv. Place and date of delivery of the assets.

The Shareholders shall execute all such documents or deeds and do any acts, including registration, certification, notarization, as may be necessary or desirable to effectively and legally transfer to the Company all such assets to be used for the payments of Shares.

- e. As soon as assets contributed to the Company is paid for Shares, such asset shall become the property of the Company, and no Shareholder shall retain any interest in such asset or otherwise make any claim, challenge or dispute the Company's ownership of such asset.

## **8.4 Offering Shares**

- a. The Board of Directors shall decide the time, the manner and the price to offer Shares. The offering prices shall not be lower than the market prices at the time offered or the value recorded in the books of shares at the latest time, except the following cases:
  - i. Shares offered for the first time are not to founding shareholders;

- ii. Shares are offered to all shareholders in proportion to their existing shares of the company
- iii. Shares are offered to brokers or underwriters. In this case, the offering price is not less than that the market price minus a commission for brokers and underwriting. The commission is determined by a percentage of the value of shares at the time of sale. Specific discount or discount rate shall be approved by shareholders representing at least 75% of the total shares with voting rights;
- b. Shares are considered to be sold after correct and sufficient information stipulated in Article 11 of this Charter is recorded in the Register. From that time, the buyer of such Shares become Shareholder of the Company;
- c. After payment of offered Shares is settled, the Company shall issue Share Certificates upon the Shareholders' request. In case, Shares are lost, torn, burn or destroyed in other forms, Shareholders shall inform the Company immediately and have the right to request the Company reissue Share Certificates and Shareholders have to pay reissuing fees as stipulated by the Company.

Company shall offer Shares without Share Certificates. In this case, all information related to Shareholders stipulated in Article 11 of this Charter shall be recorded in the Register to certify the Share ownership of such Shareholder in Company's Shares.

- d. Company offer Shares, Bonds according to way of issuing Securities to the public subject to Law of Securities. Other ways of offering Shares and Bonds shall be decided by the Company and implemented according to agreement between the Company and buyers.
- e. The common shares should be offered priority to existing shareholders in proportion to their respective ownership percentage of their common shares in the Company, unless the General Assembly of shareholders has other regulations. The company should notify the share offering, the notice should specify the number of shares to be offered and the appropriate subscription term (at least twenty working days prior) in order that shareholders could subscribe. Shares not subscribed by shareholders shall be decided by the Board of Directors. The Board of Directors may distribute such shares to the subjects under the appropriate conditions and the manner, but not sell such shares under more favorable conditions than conditions offered to the existing shareholders, unless the General Assembly of shareholders approve or shares are sold through the Stock Exchange/ Securities Trading Center.
- f. The Company may purchase shares issued by the company (including redeemable preference shares) in the manner prescribed in this Charter and the law. Common shares bought back by the Company are treasury shares which the Board may offer in manners consistent with the provisions of this Charter and the Securities Act and related guidance documents.
- g. The company may issue different types of stocks when the General Assembly of shareholders unanimously approves in writing and in accordance with the provisions of the law on securities and securities markets.

When the Company issues common shares and sell those shares to all common shareholders in proportion of their existing shares, the company should comply with the following provisions:

- a. The Company shall notify in writing to the shareholders in a guaranteed manner to reach their permanent address. The notice should be published in three consecutive issues within ten working days from the date of notification.
- b. The notice should contain the full name, permanent address, nationality, identity card number, passport or other lawful personal identification of individual shareholders; the name, permanent address, nationality, the establishment decision or business registration number of organization shareholders; number of shares and percentage of existing shares of shareholders; the total number of shares expected to be issued and the number of shares which shareholders have right to purchase; share offering price; subscription period, the full name and signature of the legal representative of the company. The time specified in the notice must be reasonable enough for shareholders to subscribe shares. The notice is attached with subscription form issued by the Company;
- c. Shareholders have the right to transfer their pre-emptive rights to purchase shares to another person;

- d. If the subscription form of shares is not delivered to the company on time as informed, the relevant shareholders have not received pre-emptive rights. As the number of shares intended to be issued is not released by shareholders and people with the right to pre-emptive subscription of the shares, the left shares is expected to be managed by the Board of Directors. The Board of Directors may distribute such shares to the shareholders of the company or other person in the manner appropriate to the conditions that are not more favorable than the terms offered to the shareholders, unless the General Assembly of Shareholders approve or shares are sold through stock exchanges center.

#### **8.5 Transfer of Shares**

- a. Shares can be transferred to any person in accordance with promulgated regulations of the Board of Directors, the Enterprise Law and the law relating to transfer of shares. Shares listed on the Stock Exchange/ Stock Trading Center shall be transferred under the law on stocks and stocks market of the Stock Exchange / Stock Trading Center.

Shares which have not been fully paid are non-transferable and have no dividends.

- b. In order to register a transfer of Shares on the Register, Shareholders should submit to the Chief Executive Office a transfer form, together with the appropriate Share Certificate for the Shares being transferred and any other evidence of transfer that the General Director reasonably asks for. The transfer form for a Share may be in any usual form or in any other form which the Board may approve and shall be executed by or on behalf of the transferor and the transferee.
- c. The Company shall retain any transfer form relating to any transfer of Shares which is registered.
- d. Upon receipt of a transfer form and relevant Share Certificate, in proper form in accordance with this Article, the Chief Executive Office shall normally record the relevant details of the transfer on the Register. However, the General Director shall be entitled to refuse to record details of a transfer on the Register if the transfer of Shares is not allowed by the Law or by the terms of this Charter. If the Chief Executive Office refuses to register a transfer of a Share, it must notify the Person to whom the Shares were being transferred of this refusal within two months.

#### **8.6 Transmission of Shares**

- a. In case of the death of a Shareholder, the executors or administrators of the deceased, as stipulated by the Law, shall be the only Person or Persons recognized by the Company as having any title to or interest in the Shares, but nothing in this Article shall release the estate of a deceased holder from any liability in respect of any Shares held by him.
- b. A Person becoming entitled to a Share in consequence of the death or bankruptcy of a Shareholder will become a Shareholder upon such evidence being produced as the Board of Directors may properly require.
- c. A Person becoming entitled to a Share in consequence of the death or bankruptcy of a Shareholder shall have the rights to which he would be entitled if he were the Shareholder, except that he shall not, before being registered as the Shareholder, be entitled in respect of it to attend or vote at any Meeting of General Assembly of Shareholders.

#### **Article 9. Share Certificates**

- 9.1 After a Shareholder has been recorded on the Register of the Company, the Chief Executive Office shall issue, or ensure that an authorized employee of the Company that shall issue, to the relevant Shareholder a Share Certificate in respect of the Shares held by that Shareholder in accordance with this Article 9.
- 9.2 Every Shareholder shall, subject to the below Clause (9.4), be entitled, without payment of any fees or charges, to Share Certificates for the Shares held by him. Any Shareholder shall have the right to request the Company to replace any number of Share Certificates representing Shares by a single collective Share Certificate.
- 9.3 The Share Certificate shall be issued in a form determined by the Board of Directors and shall include, to the extent required by Law, the following information:
  - a. The name and the Office of the Company;
  - b. Number and date of issue of the Business Registration Certificate;

- c. Type of Shares, par value of each Share and the number and total par value of Shares covered by the Share Certificate;
- d. Name of Shareholder;
- e. Summary of procedures for transfer of Shares;
- f. The Legal Representative's specimen signature and the seal of the Company; and
- g. Registration number in the Register and date of issue of the Share Certificate.

9.4 If any Share Certificate becomes defaced, damaged, lost or destroyed or is no longer useable, the General Director shall, at request of the relevant Shareholder, issue a new Share Certificate, which shall effectively repeal and replace the Share Certificate being defaced, damaged, lost or destroyed or no longer usable, provided that the Shareholder shall be liable for payment of all losses, costs and expenses incurred by the Company and may be required to undertake to pay such amounts, actual or contingent, as a condition to the issuance of a new Share Certificate.

#### **Article 10. Issuance of bonds**

**10.1** The Company has the right to issue bonds to the public or sell bonds directly to some investors of the resolutions of the Board of Directors, in accordance with the provisions of law and through the shareholders. All terms and conditions relating to the bond issue should be approved by the Board of Directors adopted by resolution, except legal authority of the Board to the Chief Executive Officer.

**10.2** The bond holders are not shareholders and have no shareholder rights. Rights of bonds holders are separated with provisions in the terms and conditions of the bonds. Bonds of company may be purchased in Vietnam Dong, freely convertible foreign currencies, gold, value of land use rights, value of intellectual property rights, technology, technical know-how, other resources defined by this Charter and must be fully paid in once.

#### **Article 11. Shareholders**

##### **11.1 Number of Shareholders**

The Company shall retain the minimum number of Shareholders in accordance with the Law.

##### **11.2 Rights and Obligations of the Common Shareholders**

Shareholders are the owners of the company, have the rights and obligations corresponding to the number of shares and type of shares that they own. Shareholders are responsible for the debts and other property obligations of the Company to the extent of capital contributed to the company.

- a. Shareholders have the following rights:
  - i. To Participate in the General Meeting of Shareholders and exercise the rights of shareholders voting in person or through an authorized representative;
  - ii. To receive dividends at the time and the value according to the General Assembly of Shareholders and the Board's decision in accordance with this Regulation;
  - iii. To be pre-emptive offer new shares corresponding to the percentage of their common shares;
  - iv. Upon dissolution of the Company, to receive a portion of the remaining assets of the Company at a rate corresponding to their number of shares after the Company has paid all debts to all creditors who have higher priority by the law;
  - v. Subject to Article 25, to have access to information and documents relating to the operation of the Company. To consider, search and extract the information in the list of shareholders entitled to vote and request for amendment of inaccurate information; to consider, search, extract or copy of the charter company, the minutes of the Shareholders' Meeting and the resolutions of the General Meeting of Shareholders (except for the Confidential Information referred to in Clause 25.2(c));
- b. Any Shareholder or Group of Shareholders collectively holding more than 5% of the Company's Share during a consecutive period of at least 6 months shall have the rights to:
  - i. To nominate of Members of the Board of Directors or the Inspection Committee by a percentage equal to or approximately equal to the ratio of their ownership of shares of the Company's shares;



- ii. To require Inspection Committee to examine each specific issues relating to management, operations of the company if necessary. The request should be made in writing and should contain full name, permanent address, nationality, identity card number, passport or other lawful personal identification of individual shareholders; the name, permanent address, nationality, number of establishment or business registration number of organization shareholders, number of shares and the date of registration of the shares held by each shareholder, the total number of shares of the group shareholders and percentage of ownership of shares of the company; problem to examine, the purpose of examination;
  - iii. To request an Extraordinary Meeting to be convened;
  - iv. To have access and receive a copy of the list of Shareholders eligible to participate in the General Assembly of Shareholders; and
  - v. To have such other rights and obligations under the Law.
- c. Obligations of shareholders:
- i. To act of compliance with Charter and regulations of the Company; to execute the decision of the General Assembly of Shareholders, the Board of Directors;
  - ii. To pay for purchase of shares subscribed by the regulations;
  - iii. To provide the correct address when registering to purchase shares;
  - iv. To complete other duties as prescribed under the current law;
  - v. To be individual responsible on behalf of the company in any way to make one of the following actions:
    - ✓ To violate the law
    - ✓ To conduct other business and transactions for personal gains or benefits of other organizations and individuals;
    - ✓ To pay for debts undue financial risk can occur for the company.

## **Article 12. Shareholder Register**

- 12.1 The Shareholder Register shall be established and maintained by the Company from the date the Business Registration Certificate issued as the legal record of ownership of Shares by each of the Shareholders. The Shareholder Register shall be in documents, electronic files or in both documents and electronic files. The Shareholder Register shall record the following details:
- a. The name and office of the Company;
  - b. The total number of shares to be offered, the type of shares to be offered and the number of shares to be offered for each type;
  - c. The total number of sold shares of each class and the value of contributed equity;
  - d. Full name, permanent address, nationality, number of citizen ID card, ID card, passport or other lawful personal identification for individual shareholders; name, code or the decision number of establishment, headquarters address to shareholders is organization; and
  - e. Number of shares of each class of each shareholder, date of share registration
  - f. Other details defined by the Law and the Board from time to time.
- 12.2 The Shareholder Register shall be kept at the Office of the Company and the General Director shall be responsible for safekeeping and updating the Shareholder Register and for the correctness of all information contained in it.
- 12.3 No later than 14 days after the receipt by the Company of full payment for Shares to be issued by the Company, the General Director shall record, or ensure that an authorized employee of the Company shall record, the relevant details of the Shareholder in the Shareholder Register.
- 12.4 Shareholders shall notify the Board of Directors in writing of any change in their addresses. The company shall not be liable for failure to communicate with the shareholders for the reason of being not notified the change of address of shareholders. As long as such notification has not been received by the Company, all notifications, announcements or other communications will be sent to the last address shown on the Shareholder Register of the Company.

- 12.5 The Company is not entitled to destroy or dispose of any of the following documents during filing period stipulated by the Law:
- a. Any share transfer forms which have been registered, and any other documents used as the basis for changing information in the Shareholder Register;
  - b. Any Shares has been cancelled; and the Company shall have the burden of proving the accuracy of any entry or omission from the Shareholder Register if it fails to comply with the foregoing provisions of this paragraph.

#### **Article 13. Share Buy-Backs upon Requests of Shareholders**

- 13.1 Shareholders who vote against decisions regarding the restructure of the Company or changes of Shareholders' rights and obligations stipulated in this Charter, have the rights to request the Company to buy back their shares. Requests shall be made in writing, stating name, address of Shareholders, number of each Share, proposed offering prices, reasons of these requests. Requests shall be submitted to Company within 10 (ten) days, from the date the General Assembly of Shareholders approve on such decisions stated in this Clause.
- 13.2 The Company has to buy back Shares upon Shareholders' requests stipulated in the preceding Clause at market prices or prices decided according to principle stipulated by the Board of Directors within 90 (ninety) days, upon the receiving of the request. If prices cannot be agreed, each party shall have the right to request competent referee or court to settle according to the Law.

#### **Article 14. Share Buy-Backs upon Company's Decisions**

The Company shall have the right to buy back no more than 30% of total Common Shares offered subject to the following rules:

- 14.1 Buy-backs more than 10% total offered Shares shall be decided by the General Assembly of Shareholders. In other cases, Share buy-backs shall be decided by the Board of Directors.
- 14.2 The Board of Directors decides the price of Share buy-backs. For the Common Shares, the price of Share buy-back shall not be higher than the market price at time of buy back, except cases stipulated in Clause 14.3 of this Charter.
- 14.3 The Company shall repurchase Shares of each Shareholder on a pro rata basis. In this case, Company's buy-back decision shall be informed to all Shareholders within 30 (thirty) days from the approval date. The notice shall have name and address of the Company, total number of Shares, repurchased prices or principle of fixing such prices, procedures and time of payment, procedures and time-limit for Shareholders to offer their Shares to the Company. Shareholders have to offer their Shares to the Company within 30 (thirty) days from the date of notice.

#### **Article 15. Payment Conditions and Repurchased Shares**

- 15.1 The Company shall only pay repurchased Shares to Shareholders in accordance with Article 13, 14 of this Charter, if immediately after settling all repurchased Shares, the Company is still able to settle all debts and other assets obligations.
- 15.2 All repurchased Shares according to Article 13, 14 of this Charter shall be considered unsold Shares among offering Shares.
- 15.3 After paying all repurchased Shares, if total assets recorded in the Company's Account Book decrease more than 10%, the Company has to inform such information to all creditors within 15 (fifteen) days, from the date of paying all repurchased Shares.
- 15.4 The acquired Shares shall be destroyed as soon as the corresponding shares have been fully paid. Chairman of the Board and the Directors or Chief Executive Directors shall be jointly responsible for the damage or destruction due to slow destruction of shares caused to the company.

## Chapter III

# ORGANIZATIONAL STRUCTURE OF THE COMPANY

### Article 16. Structure of Organization, Management and Control of the Company

The structure of organization and management of the Company includes:

- General Meeting of Shareholders
- The Board
- General Director
- Inspection Committee (in case the Company has more than 11 Shareholders)

### Article 17. General Assembly of Shareholders

- General Assembly of Shareholders is the highest authority of the Company. The Annual Meeting of Shareholders is held once a year. The Annual Meeting of shareholders should be held in term of four months from the end of the fiscal year through the proposal of the Board of Directors; the business registration agency shall extend, but not more than six months after the end of the fiscal year.
- The Board decides appropriate venue and organizes the Annual Meeting of shareholders. The General Assembly of Shareholders decides on matters in accordance with the Law and the Charter of the Company, particularly through the annual financial statements and the financial budget for the next fiscal year. The independent auditors are invited to attend the meeting to advise the adoption of the annual financial reports.
- The Board of Directors should convene the extraordinary general meeting of shareholders in the following cases:
  - a. The Board appreciates it necessary for the benefit of the Company;
  - b. Yearly consolidated Balance Sheets, quarterly or semi-annual reports or audit reports for the fiscal year reflect the capital has lost half;
  - c. When the member of the Board members is fewer than that under the Law or less than half of the number of members specified in the Charter;
  - d. Shareholders or group of shareholders as stipulated in Article 10.2 b in this Charter requires the General Assembly of shareholders to convene by a written petition. The petition should state the reason and purpose of the meeting and be signed by the concerned shareholders (petition can be made in many copies in order to be signed by all concerned shareholders);
  - e. The Inspection Committee request to convene a meeting if they have reasons to believe that members of the Board of Directors or senior managers seriously breach of their obligations under the Article 119 or the Board of Directors acts or intends to act outside the scope of powers;
  - f. Other cases prescribed by the Law and this Charter.  
Convening of the extraordinary General Meeting of Shareholders
  - g. The Board should convene a General Meeting of Shareholders in term of thirty days from the date remain members of the Board specified in Clause-c, Article 17 or requested to specify in Clause - d and -e, Article 17.
  - h. In case that the Board fails to convene a General Meeting of shareholders as stipulated in Clause-g, Article 17, within next thirty days, the Inspection Committee should be representative of the Board of Directors to convene the General Meeting of the shareholders in accordance with Clause 5, Article 97 of the Enterprise Law.

- i. In case that the Inspection Committee fails to convene a General Meeting of Shareholders as stipulated in Clause-h, Article 17, within next thirty days, shareholders or group of shareholders with the requirements specified in Clause-d, Article 17 have the right to be representative of the Board of Directors, the Inspection Committee to convene General Meeting of shareholders in accordance with Clause 6, Article 97 of the Enterprise Law.

In this case, shareholders or group of shareholders convening a General Meeting of Shareholders may request the business registration agency to monitor the convening and conducting meetings if necessary.

- j. All costs for the convening and conducting meetings of shareholders will be reimbursed by the company. This cost does not include the cost that shareholders spend when attending the General Meeting of shareholders as well as the cost of accommodation and travel.

### **17.1 Powers and Responsibilities of the Board**

- a. The General Meeting of Shareholders have the right to discuss and approve:
  - i. Financial statements audited annually;
  - ii. Reports of the Inspection Committee;
  - iii. Reports of the Board of Directors;
  - iv. Short and long term development plans of company.
- b. The Annual General and Extraordinary Meeting of Shareholders approve through a written decision on the following issues:
  - i. The annual financial statements;
  - ii. The annual dividend payment to each type of shares accords with the Enterprise Law and the rights are associated with that type of shares. This dividend rate is not higher than that the Board recommended after the General Meeting of Shareholders;
  - iii. The number of members of the Board of Directors;
  - iv. Selection of auditors;
  - v. Election, removal and replacement of members of the Board of Directors and the Inspection Committee as well as approval of the Board on appointment of Directors or Chief Executive Officer;
  - vi. Total remuneration of the Board members and remuneration report of the Board of Directors;
  - vii. Supplement and amendment the Company's Charter;
  - viii. Type and the number of new shares will be issued for each type of shares, and the transfer of shares of the founding members in the first three years after the date of establishment;
  - ix. De-merger, consolidation, merger or conversion of the Company;
  - x. Reorganization and dissolution (liquidation) of the Company and appointment of the liquidator;
  - xi. Inspection and management of the Board of Directors or Inspection Committee's breaches that damage to the Company and shareholders of the Company;
  - xii. The decision on sale of company or its subsidiary assets or purchase transaction valued equal to or greater than 50% of the total value of Company assets and its subsidiaries is recorded in the newest audited Company's financial statements;
  - xiii. The company acquired more than 10% of a type of shares issued;
  - xiv. The Director or General Director is Chairman of the Board;
  - xv. The Company or its subsidiaries entering into a contract, with those specified in Article 120.1 of the Enterprises Law, with a value equal to or greater than 20% of the total value of assets of the Company and its subsidiaries is recorded in the newest audited financial statements;

- xvi. Other issues under the provisions of this Charter and other regulations of the Company;
- c. All resolutions and issues put on the agenda should be discussed and voted at the General Meeting of Shareholders.

#### **17.2 The authorized representatives**

- a. The shareholders entitled to attend the General Meeting of Shareholders may participate directly or authorize his representative to attend. In case that there is more than one authorized representative to be appointed, the specific number of shares and votes of each agent should be determined.
- b. The authorization letter for representatives to attend the General Meeting of Shareholders should be made in writing in the form of the company and should be signed by the following provisions:
  - i. In case that individual shareholders who are authorized to be signed by the shareholder and the person authorized to attend the meeting;
  - ii. In case that the authorized representative of the shareholders is organization, the authorized person should be signed by an authorized representative, the legal representative of the shareholder and the person authorized to attend the meeting;
  - iii. In other cases, it should be signed by the legal representative of the shareholder and the person authorized to attend the meeting.

People authorized to attend the General Meeting of Shareholders should submit written authorization before the meeting.

- c. In case that the lawyer on behalf of the authorized person sign designated representative letter, the appointment of a representative in this case only comes in effect if it is presented along with a letter of authorization for the lawyer or a valid copy of the authorization letter (if not previously registered with the Company).
- d. Except as specified in clause c, votes of the person authorized to attend meetings within the authorization shall remain in effect in any of the following circumstances:
  - i. The person of authorization is dead, limited capacity for civil acts or lost their civil act capacity;
  - ii. The person of authorization canceled the appointment of authorizing;
  - iii. The person of authorization canceled the authority of authorized person to perform.

This provision shall not apply in the case that the Company received notice of any event in forty-eight hours before the opening of the General Meeting of Shareholders or before the reconvened meeting.

#### **17.3 Change of rights**

- a. The decision of the General Meeting of Shareholders on the change or cancellation of the special rights attached to each type of shares shall only be approved with the consent in writing of the holders of at least 75% voting power of shares of such type issued.
- b. The organization of such a meeting shall be valid only when a minimum of two shareholders (or their authorized representative) hold at least a third of the par value of the shares issued. In case that there is not enough quorum as above, the meeting will be held within thirty days later, and that the holders of shares of such types (regardless of the number of people and number of shares) are present directly or through an authorized representative shall be sufficient to the required number of delegates. At separate meetings mentioned above, the holders of shares of such type who present or through their representatives may request a secret ballot and the ballot each have one vote for each ownership share of such type.
- c. Unless the terms of issue of shares have other provisions, the special rights attached to the shares of preferred rights to some or all of the issues related to the sharing of profits or assets of the Company shall not be changed when the company issues additional shares of the same type.

#### **17.4 Authority to convene the General Meeting of Shareholders**

- a. The Annual General Meeting of Shareholders is held at least once a year at the time and venue determined by the Board. General Director is responsible for providing the agenda of each Annual Meeting for Chairman of the Board.
- b. Extraordinary General Meeting of Shareholders shall be convened by the Board by notice at the request of (i) the Board of Directors through a majority vote of the Board Members presenting in a valid meeting, or (ii), the Inspection Committee, in case of the Board of Directors detected serious violation of its obligations, (iii) a shareholder or group of shareholders referred to in the Article 10.2 b. Individuals or organizations required to convene the Extraordinary General Meeting of Shareholders should state some issues to be discussed and proposed solutions in their claims.
- c. The convener of the General Meeting of Shareholders should submit a written invitation to all shareholders in the list of shareholders entitled to attend the meeting no later than 10 days before the opening. Notice of meeting shall include the name, address of head office, company identification code; full name, permanent address of shareholders, time, venue and other requirements for the attendees.

For shareholders with the shares depository, the notice may be sent to depository institutions, and published in the media of the Securities Exchange/ Central Stock Exchange, the company's website, 01 national or 01 local newspaper where the company's head-office is located. For those without the shares depository, the notice may be sent to shareholders by personal delivery or by guaranteed post to the registered address, or to the address provided by the shareholders. In case shareholders have notified the Company in writing of the fax or e-mail address, the notice may be sent to that fax number or e-mail address. In case the shareholder is working for the company, the notice may be put into a sealed envelope and handed to them. In case the company has a website, the notice shall be both published on the website and delivered to the shareholders. The meeting invitation should be accompanied by the following documents:

- The agenda, the materials used in meetings and draft resolutions for each issue in the agenda;
- Voting forms;
- Samples appointing representative for proxies.

In case that company has a website, sending the meeting documents according to the notice of invitation specified in paragraph 3 of this Article shall be replaced by posting information in the company's website. The notice of invitation shall specify the venue, method to download documents and the company should submit meeting documents to the shareholders if those request.

- d. The random undeliverable notice to convene the Annual General Meeting to any person entitled to receive this notice or any of these people did not receive notice shall not invalidate the process of that Meeting. However, in all cases that the company failed to deliver notice to convene the Meeting to the address listed on the Register of Shareholders is not considered fortuitous, and in case of a disputation on this regard, the Company has a responsibility to prove that notice has been sent correctly. In addition, if the Meeting is postponed because of insufficient attendees, the company will immediately try every effort to confirm by fax, e-mail, telephone or other means of communication to inform the Shareholders of the Meeting delay and the rescheduled time and venue of the meeting.
- e. The first General Meeting of Shareholders should be convened within 01 (one) month after the date on the certificate of business registration.
- f. Chairman of the Board, or in case of his absence, a Member of the Board appointed by the Board will chair the Meeting, but if both the Chairman and Board Members designated for replacement (if any) are not present within fifteen (15) minutes after the Meeting scheduled to begin, the other present members shall elect a member of all to preside if he/ she wants to take and if there is only one board member present, this member will preside if he/ she wants to take. If no member of the Board is willing to preside, or no member of the Board presents within fifteen (15) minutes after the Meeting scheduled to begin, the present shareholders at the meeting have the right to vote one of them to preside.
- g. With the approval of Chairman of the Board, the Shareholders may attend the Shareholders' Meeting by telephone in the condition that each shareholder should hear the other present

shareholders at the Meeting and present shareholders hear what those shareholders say. This form of participation is considered as tantamount to attend in person. In that case, regardless of Terms 17.6 (c), the vote will be conducted in a manner consistent with the means to exchange information.

#### **17.5 Conditions to conduct the General Meeting of Shareholders**

- a. The General Meeting of Shareholders shall be conducted when the number of representing shareholders at least 51% of the total shares with voting rights.
- b. If not enough minimum participants for the General Meeting of Shareholders is present within 01 (one) hour after the meeting is scheduled to begin, or if during the meeting, present delegates are below the minimum, the meeting shall be postponed.
- c. In case the first meeting is ineligible to be conducted under the provisions of paragraph 1 of this Article, the meeting shall be convened for the second time within thirty days from the scheduled date of the first meeting. General Meeting of Shareholders convened for the second shall be conducted when the number of representing shareholders at least 33% of the total shares with voting rights.
- d. In case of the meeting convened for the second time is ineligible to be conducted under the provisions of paragraph 2 of this Article, the meeting shall be convened for the third time within twenty days from the scheduled date of the second meeting. In this case, the General Meeting of shareholders shall be regardless of the number of shareholders and the percentage of shares with voting rights of the presenting shareholders.

#### **17.6 The procedures for conducting meetings and voting at the General Meeting of Shareholders**

- a. On the day of the General Meeting of Shareholders, the Company should implement procedures for shareholder registration which should be done until all shareholders entitled to attend have registered.
- b. When conducting the registration of shareholders, the Company shall issue to each shareholder or authorized representative a voting card on which has the registration number, name of the shareholder, the name authorized representative and the votes of such shareholders. During voting at the meeting, the approval cards shall be collected before the disapproval cards, then count the total of supporting or against votes for the decision. Total of affirmative/ against/ blank votes shall be announced by Chairman shortly after the voting for such issues. The General Meeting shall choose among the representatives the people who will be responsible for vote counting or supervision of the vote counting; if the Meeting does not choose any people, the Chairman will select those people. The members of voting committee should not exceed three people.
- c. Shareholders who attend the General Meeting of Shareholders late may register immediately and then have the right to participate and vote in the meeting. The chairman shall not have to stop meeting for late shareholders and the validity of the voting phase conducted before those attendees will not be affected.
- d. The General Meeting of Shareholders will be chaired by Chairman; in case Chairman is absent, the Vice Chairman or the person elected by General Meeting of Shareholders shall take the chair. In case none of them could chair the meeting, presenting members of the Board with the highest position shall hold a meeting to elect the Chairman of the Meeting; the Chairman is unnecessarily a Board member. President, Vice President or Chairman of the Meeting who are elected by General Assembly of Shareholders nominate a secretary to make the meeting minutes. In case of electing chairman, chairman's name of the votes for him shall be announced.
- e. The decision of the Meeting's Chairman on the order, procedures or events beside the agenda of the Meeting shall take the most decisive.
- f. Chairman of the General Meeting of Shareholders may adjourn the meeting, without consultation with the Meeting, even in case of enough attendees until another time and at another location decided by the chairman if he notices that (a) the attendees may not have comfortable seats at the meeting venue, (b) the behavior of others who are disorderly or able to disorder the meeting or (c) the delay is necessary for the meeting to be conducted in a lawful manner. In addition, the Chairman of the meeting may postpone the meeting if there is consent or request of the General Assembly of Shareholders with sufficient number of needed

delegates. Delay time is not exceeding three days after the scheduled opening of the meeting. This meeting shall only consider the issues which should have been resolved at the legal meeting delayed earlier.

- g. In case Chairman postpones or suspends the Meeting in contravention of the provisions, shareholders shall elect a member of the other attendees to replace the chairman of the meeting until the end and decisions at that meeting are not affected.
- h. The meeting Chairman or Secretary may carry out activities that they deem necessary to control the General Meeting of Shareholders validly and orderly or for meeting to reflect the wishes of the majority number of participants.
- i. The Board may require the shareholders or authorized representatives attending the General Meeting of Shareholders to subject to the control or the security measures that the Board deems appropriate. In case the shareholders or authorized representatives refuse to comply with the regulations or the security measures mentioned above, the Board of Directors, after the careful consideration, may reject or expel those shareholders or representatives to participate in the Meeting.
- j. Board of Directors, after the careful consideration, may carry out the measures they deem appropriate to:
  - i. Adjust the number of people presenting at the venue of Shareholders' Meeting;
  - ii. Ensure the safety of everyone presenting at that location;
  - iii. Tạo điều kiện cho cổ đông tham dự (hoặc tiếp tục tham dự) đại hội. Facilitate shareholders to participate (or continue to attend) the meeting.

The Board reserves the right to change the above measures and take all measures if they deem necessary. The measures may be granted admission or using other alternatives.

- k. In case the General Meeting of Shareholders may be applied the above measures; when determining the possible, the Board of Directors venue may:
  - i. Notice that the meeting will be conducted at the place stated in the notice of meeting and
  - ii. Arrange, organize for shareholders or authorized representatives not attending under this Article or those who want to participate at other places different with the main venue of the meeting may attend the meeting at the same time;

Notice of organizing the meeting without detailing the organizational measures pursuant to this Article.

- l. In this Charter (except other circumstance requirements), all shareholders shall be deemed to participate in the meeting at the main venue.

The Company should organize the General Meeting of Shareholders at least once a year. The Meeting is not held in the form of a written opinion.

### **17.7 Agenda and Content of a General Meeting of Shareholders**

- a. The Person who convenes a General Meeting of Shareholders shall prepare the agenda and content;
- b. Shareholders or group of shareholders stipulated in Article 11.2 may propose matters into the agenda of the Meeting. Recommendations should be made in writing and sent to the Company at least 3 days before the opening of the Meeting. Recommendations should include the shareholders' names, number of shareholders' shares of each class, and issues proposed into the agenda;
- c. The Person who convenes a General Meeting of Shareholders shall have the right to reject the proposal stipulated in Clause 17.7 b only in one of the following circumstances:
  - i. The proposals are received by the Company after the deadline or do not contain the information required;
  - ii. The proposals are beyond the powers of the General Meeting;

### **17.8 Changes of Agenda of a General Meeting**



- a. Only the General Meeting of Shareholders shall have the right to change the agenda attached notice of meeting as stipulated in Article 17.4 of this Charter. Any Shareholder shall have the right to propose changes or additions to the agenda of a General Meeting. The proposed changes or additions shall be in writing and received by the Company at least 3 (three) days prior to the relevant General Meeting. The proposed changes shall clearly indicate the name of the proposing Shareholder(s), the number of Shares held by each of them, their signatures and the proposed changes or additions to the agenda of the General Meeting.
- b. The Person who convenes a General Meeting shall have the right to reject the proposed changes or additions only in one of the following circumstances:
  - i. The proposal changes or additions are received by the Company after the deadline stipulated in Clause 17.8(a) or the request for the changes or additions does not contain the information required in Clause 17.8(a); or
  - ii. The proposed changes or additions are beyond the powers of the General Meeting; or
  - iii. The proposed changes or additions could have been rejected under the last sentence of Clause 17.4(b) if the matter constituted the subject matter of a request for an Extraordinary Meeting.

### **17.9 Approval of Resolutions of the General Meeting**

- a. The General Assembly of Shareholders shall decide its business by resolutions. Except for the cases mentioned in Clause 17.9(b), a resolution shall be approved if received more than 51% of total voting Shares of all attending Shareholders.
- b. In the following cases, resolutions of the General Assembly of Shareholders shall be approved by voting at the Meeting :
  - i. To decide on any supplement or amendment to this Charter;
  - ii. To ratify the development strategies of the company;
  - iii. To decide types of shares and the total number of shares of each class to be offered;
  - iv. To appoint, dismiss, terminate members of the Board of Directors and the Inspection Committee;
  - v. To invest or sell assets with a value equal to or greater than 50% of the total value of assets recorded in the most recent financial statements of the company if the company's Charter does not prescribe any different rate;
  - vi. To ratify the annual financial statements;
  - vii. To decide on any reorganization, restructuring or dissolution of the Company.

The decisions of the General Assembly of Shareholders passed at the meeting if they meet the following conditions:

- i. The number of shareholders represents at least 51% of the total affirmative votes of the shareholders attending the meeting;
- ii. Decisions on the types and total number of shares of each type of shares to be offered; amendment, supplement the company's charter; reorganization, dissolution of the company; investment or sale of assets with a value of or greater than 50% of the total value of assets recorded in the most recent financial statements of the company should be approved by shareholders representing at least 65% of the total affirmative votes of all shareholders attending the meeting;
- iii. The voting to elect members of the Board of Directors and the Inspection Committee should follow the method of cumulative voting, under which each shareholder has a total of votes corresponding to the total of owned shares multiplied by the number of voted members of the Board of Directors or the Inspection Committee and shareholders have the right to put all of their votes into one or some candidates.

### **17.10 Competence and procedures for shareholders consultation in writing to ratify a resolution of the General Assembly of Shareholders**

Competence and procedures for shareholders consultation in writing to ratify a resolution of the General Assembly of shareholders shall comply with the following provisions:

- a. The Board has the right to consult shareholders to pass a written resolution of the shareholders at any time if it is necessary for the interests of the company;
- b. The Board should prepare the expression form, the draft resolution of the General Assembly of Shareholders and explanatory documents. The expression form attached to the draft resolution and the explanatory documents should be sent by a guaranteed method to of each shareholder at his permanent address;
- c. The expression form should contain the following principal contents:
  - i. Name and address of head office, number and date of issuance of the business registration certificate, place of business registration;
  - ii. The purpose of consultation;
  - iii. Full name, permanent address, nationality, number of the identity card, passport or other lawful personal identification of shareholders who are individuals; name, permanent address, nationality, number of decisions establishment or business registration number of shareholders or authorized representatives who are organizations, the number of shares of each type and the number of votes of the shareholders;
  - iv. The issue needs to be consulted to pass the resolution;
  - v. Voting options include approval, disapproval, and no opinion;
  - vi. Duration of sending the expression form to the company was answered;
  - vii. Full name and signature of the Chairman of the Board and legal representative of the company;
- d. Expression forms answered should be signed by the individual shareholder, by an authorized agent or legal representative of the organization's shareholders.  
 Expression forms returned to the company should be contained in a sealed envelope and no one is permitted to open before the counting of votes. The expression forms returned to the company after the deadline specified in the content or opened shall not be valid;
- e. The Board of Directors count votes and record with the presence of the Inspection Committee or shareholders without holding management titles at the company. A voting record should contain the following principal contents:
  - i. Name and address of head office, number and date of issuance of the business registration certificate, place of business registration;
  - ii. The purpose and the issues that need to be consulted to pass the resolution;
  - iii. Shareholders with voting shares participated in the vote, which distinguish valid votes and invalid votes, including an appendix listing voting shareholders;
  - iv. Total number of votes for approval, disapproval, and no opinion on each issue;
  - v. The decisions was through;
  - vi. Full name and signature of the Chairman of the Board, the legal representative of the company and of the supervisor of vote counting
 The Board members and the supervisor of vote counting shall be jointly responsible for the truthfulness and accuracy of the voting record; shall be jointly liable for damages arising from decisions passed by dishonest or inaccurate in counting;
- f. Minutes of the voting results should be sent to shareholders within fifteen days from the end of vote counting;
- g. Answered expression forms, passed voting record and full text of the resolution as well as related documents attached to the expression form should be kept at the head office of the company;
- h. In case of the resolution passed in the form of written comments, the resolutions of the General Meeting of Shareholders shall be passed by a number of shareholders representing at least 51% of voting shares. The decision passed by the shareholders consultation in writing is as valuable as the decision passed at the General Meeting of Shareholders.

- i. Resolutions of the General Meeting of Shareholders being passed by 100% of total shares with voting rights are legitimate and effective even when the sequence and procedure to pass those resolutions is not performed properly as regulation.

#### **17.11 Request to revoke the decision of the General Assembly of Shareholders**

Within ninety days from the date of receipt of the Minutes of the General Meeting of Shareholders or the voting results of consultation of the General Assembly of Shareholders, shareholders, Board members, CEO or directors, the Inspection Committee may request the Court or Arbitrator to consider and cancel the decision of the General Meeting of Shareholders in the following cases:

- a. The order and procedures for convening the General Assembly of Shareholders is not complied with the provisions of this Law and the company's Charter;
- b. The order, decision-making procedures and content breach of the Law or the company's Charter.

### **Article 18. The Board of Directors**

#### **18.1 Powers and Responsibilities of the Board**

- a. Business operations and affairs of the Company subject to the implementation direction or management of the Board. The Board is the agency with full authority to perform all the rights on behalf of the Company except the authority of the General Assembly of Shareholders.
- b. The Board is responsible for supervising CEO or directors and other managers.
- c. The powers and responsibilities of the Board are defined by the Law, the Charter, and the internal regulations of the company and the decision of the General Meeting of Shareholders. Specifically, the Board has the following powers and duties:
  - i. To decide on business development plans and annual budgets;
  - ii. To identify performance targets based on strategic objectives passed by the General Assembly of Shareholders;
  - iii. To appoint and dismiss managers and their salary at the request of CEO or directors;
  - iv. To decide on the organizational structure of the Company;
  - v. To settle the claims against the company for managers as well as decide on the Company's representatives to resolve issues related to the legal proceedings against those managers;
  - vi. To suggest types of shares to be able to issued and the total number of issued shares of each types;
  - vii. To propose the issuance of bonds, convertible bonds into shares and warrants allowing holders to buy shares at a predetermined price;
  - viii. To decide on selling price of bonds, shares and convertible securities;
  - ix. To appoint and dismiss Chairman of the Board, CEO or directors or managers or representatives of the Company when the Board considers that it is for the supreme interests of the Company. The dismissal was not contrary to the contractual rights of the dismissed people (if any);
  - x. To propose the annual dividends and determine the interim dividends; organize the payment of dividends;
  - xi. To propose the restructuring or dissolution of the Company.
- d. The following issues should be approved by the Board:
  - i. Establishment of a branch or representative office of the company;
  - ii. Establishment of subsidiaries of the Company;
  - iii. The scope of the provisions of Article 149 of the Enterprise Law, except specified provisions in Article 144 of the Enterprise Law, should be approved by the General Assembly of Shareholders, the Board of Directors from time to time makes decisions, modifies and cancel the company's larger contracts (including contracts for purchasing, sale, merger, acquisition and joint ventures and companies);

- iv. Indication and dismissal of those authorized commercial representatives and lawyer of the Company;
  - v. Debts and the implementation of mortgages, warranties, guarantees and compensation of the Company;
  - vi. Investment excluded in the beginning business plan and budget, investment exceed over 10% of the annual business plan and budget;
  - vii. Purchase or sale of shares of the other companies established in Vietnam or abroad;
  - viii. Valuation of the assets, contributed to the Company, not in cash relevant to share issues or company bonds, including gold, rights of using land, rights of intellectual property, technology and technology know-how;
  - ix. The company purchases or acquires not more than 10% of each type of shares;
  - x. Issues of business or transactions on which the Board decides requires the approval of their scope of powers and responsibilities;
  - xi. Decision on price of purchase or acquisition of Company shares.
- e. The Board should report to the General Assembly of Shareholders on their activities, in particular monitoring of CEO or Directors and other managers in the fiscal year. In case the Board does not submit a report to the General Assembly of Shareholders, the annual financial statements of the Company will be deemed invalid and not ratified by the Board.
  - f. Except the Law and other regulations of the Charter, the Board may authorize subordinate employees and representative managers to handle work on behalf of the Company.
  - g. The Board (excluding the representatives authorized to substitute) receive remuneration for his work as a member of the Board of Directors. Total remuneration for the Board of Directors is decided by the General Assembly of Shareholders. This amount shall be distributed to the Board members as agreement upon the Board or shared out in case of no agreement reached.
  - h. Total remuneration paid to the Board members [and amount of remuneration for each member] must be detailed in the annual statement of the Company.
  - i. The Board members who hold executive positions (including the Chairman or Vice-Chairman), or work in the committee of the Board, or do other work outside the scope of ordinary duties of a Board member from the viewpoint of the Board may be paid additional remuneration in the form of a remuneration package for each time, wages, commission, percentage of profits, or other forms determined by the Board.
  - j. The Board members have the right to be paid all expenses of travel, accommodation, meals and other reasonable expenses when performing his responsibilities including expenses incurred in attending meetings of the Board, or committees of the Board or the General Meeting of Shareholders.

## **18.2 Term and number of the Board members**

- a. Number of the Board members is at least five (05) people and maximum of eleven (11) people. The term of the Board is five (05) years. The term of the Board members shall not exceed five (05) years; the Board members may be re-elected for unlimited terms. Total number of independent (non-executive) members of the Board should constitute at least one-third of the Board members.
- b. The Board Members nominated by found shareholders by shareholding ratio of each found shareholders. The found shareholders are entitled to add share ownership together in order to nominate members to the Board of Directors.
- c. The shareholders holding at least 5% of the shares with voting rights in a continuous period of at least six months have the right to combine voting rights of each together in order to nominate candidates for the Board. A shareholder or group of shareholders holding less than 10% of the shares with voting rights in a continuous period of at least six months may nominate one member; from 10% to 30% nominate two members; from 30% to 50% nominate three members; from 50% to below 65% nominate four members and 65% or greater nominate the sufficient number of candidates.
- d. In case the number of candidates nominated by the Board of Directors and candidates are still insufficient, the incumbent Board of Directors may nominate candidates or organizations

nominated by company's regulations. The mechanism or form that the incumbent Board nominates candidates to the Board should be clearly disclosed and approved by the General Assembly of shareholders before nominating.

### **18.3 Standards and conditions for the Board Members**

The Board members should have the following standards and conditions:

- a. Be not any member of the Board of Directors or Executive Board of any other competitive companies
- b. Be full of civil act capacity, not subject to candidates prohibited for enterprise management under the provisions of this Act;
- c. Be individual shareholders owning at least 5% of the common shares or others with professional qualifications and experience in business management or in the main business of the company or standards, the other conditions specified in the company's Charter.
- d. For subsidiary companies in which the State owns 50% of capital, the Board members should not ones related to the managers who have authority to appoint the leader of the holding company.

### **18.4 The Board members without qualification as a member of the Board**

The Board members shall not be as a member of the Board in the following cases:

- a. That Member is not qualified as a member of the Board in accordance with the Enterprise Law or prohibited to be a member of the Board of Directors by the Law;
- b. That Member has a mental disorder, and other members of the Board have evidences proving him to have no act capacity any longer;
- c. That Member is absent from meetings of the Board for six consecutive months, and during this time the Board does not allow him absent and decided his position to be vacant;
- d. That Member is dismissed by the Board as decision of the General Assembly of Shareholders.
- e. The Board may appoint a new Board member to replace vacancies and this new member should be approved by the General Assembly of Shareholders then. After this approval, the appointment of the new member shall be effective on the date of appointment by the Board of Directors.
- f. In case the number of Board members be reduced more than one-third compared to the number specified in the company's Charter, the Board of Directors shall convene a General Meeting of Shareholders in a period of sixty days from the date when Members were reduced more than one-third in order to elect new Board members.
- g. In other cases, at the most recent meeting, the General Assembly of shareholders shall elect new members to replace dismissed ones.
- h. The appointment of the Board members shall be notified in accordance with the law on securities and securities markets.

### **18.5 For resignation of the Board members**

- a. That Member should submit a written resignation to the company's head office. Resignation letter should be approved by the Board of Directors and the General Assembly of Shareholders. In this case, he should have resolved all of his duties assigned and bear all losses (if any) caused by him in his term.
- b. The appointment of a new member for replacement shall be proceeded as provision specified in Article 18.3

### **18.6 Chairman and Vice-Chairman of the Board**

- a. The General Assembly of Shareholders or the Board of Directors shall select among the members of the Board a Chairman and a Vice Chairman. Except other decisions of the General Assembly of Shareholders, Chairman shall not concurrently hold the position of CEO of the company. Chairman is concurrently CEO should be approved at the Annual General Meeting of Shareholders.
- b. Chairman shall convene and preside over the General Meeting of Shareholders and meetings of the Board, and have the other rights and responsibilities specified in this Charter and the

Enterprise Law. Vice Chairman shall have the same rights and obligations as Chairman in case Chairman authorizes only when Chairman informed the Board that he shall be absent or reasons of force majeure or inability to perform his duties. In the above case, Chairman does not appoint Vice Chairman to act; the other members of the Board shall appoint Vice Chairman. In case both Chairman and Vice Chairman are temporarily unable to perform their duties for any reasons, the Board may appoint another person among them to perform Chairman's tasks in accordance with the majority principle.

- c. Chairman of the Board shall be responsible to ensure that the Board submit annual financial reports, activity reports of the company, audit reports and inspection reports of the Board of Directors to the General Assembly of Shareholders;
- d. In case both Chairman and Vice Chairman of the Board resigned or is dismissed, the Board shall elect a replaced member within ten days.

#### **18.7 Meetings of the Board**

- a. In case the Board elects Chairman, the first meeting of the term of the Board for electing Chairman and other decisions under the control should be carried out within seven working days from the end of election of the Board of Directors for that term. This meeting is convened by the member with the highest number of votes. If more than one member has the highest and equal number of votes, a member among ones elected by a majority shall convene a meeting of the Board.
- b. The regular meetings: Chairman of the Board shall convene meetings of the Board, set up the agenda, time and place of the meeting at least seven days before the scheduled meeting. Chairman may convene any necessary meetings, but at least once every quarter.
- c. The extraordinary meetings: Chairman shall convene meetings of the Board without any delay if there is not any reasonable reason. When one of the below objects proposes in written statements with the purpose of meetings and issues to be discussed:
  - i. CEO or at least five managers;
  - ii. Two members of the Board
  - iii. Chairman of the Board
  - iv. The majority of the members of the Inspection Committee.
- d. Meetings of The Board shall be conducted within fifteen days after suggestion of meeting. In case Chairman of the Board does not accept the proposal to convene a meeting, he shall be responsible for the damages caused to the company; those who suggested the meeting may themselves convene meetings of the Board.
- e. In case there is request of the independent auditors, Chairman shall convene a meeting of the Board to discuss the audit reports and company situation.
- f. Venue. Meetings of The Board shall take place at the registered address of the company or other address in Vietnam or overseas as decided by Chairman of the Board and unanimously approved by the Board.
- g. Announcement and agenda. Announcement of the Board's meetings should be sent to members of the Board at least five days before the meeting, members of the Board may refuse meeting invitations in writing and this refusal may have retroactive effect. Announcement of the Board's meetings should be in Vietnamese writing and should notify full of agenda, time and venue, together with the necessary documents on these issues on which are discussed and voted at the meeting and the votes for the Board's members who could not attend the meeting.

The meeting announcement is sent by post, fax, electronic mails or other means, but make sure to get the registered address of each member of the Board.
- h. Number of minimum attendees. Meetings of the Board shall be only conducted and pass the decisions when at least three-quarters of members of the Board are present directly or by instead representatives.
- i. Voting.
  - i. Each member of the Board or the person authorized to present himself personally at the Board's meetings shall have one vote;

- ii. The Board members are not voted on the contract, transaction or proposals that a member or his associated person has the benefits and interests conflicted or may be conflicted with the company's interests. A Board member shall not count toward the minimum number of participants required to be present to hold a meeting of the Board for decisions that the members do not have voting rights;
- iii. When problems raised in a meeting of the Board regards to the level of interest of members of the Board or relate to the voting rights of a member that the issue is not resolved by the voluntary waiver of the right to vote of the Board members, those problems shall be moved to Chairman of the meeting and preside judgment regarding all other Board members shall be the final decision, unless the nature or scope of interests of relating members of the Board of Directors is publicized properly;
- j. Disclosure of interest. The Board Members who directly or indirectly have benefits from a contract or transaction which has been concluded or are expected to sign with the company and know that they have interests in it, shall be publicized nature, the content of such rights in the first meeting that the Board considered the issues of contract or transaction. Or these members may publicize that issue at the first meeting of the Board held after the members know that they have interests or shall have interests in a concerned contract or transaction.
- k. Majority voting. The Board passed resolutions and decisions by following the approval of a majority of the Board members presenting (50%). In case the number of approval votes and disapproval ones are equal, Chairman shall be the deciding vote.
- l. Meetings on a phone or in other forms. Meetings of the Board may be organized in the form of conference among the members of the Board when all or some of the members are in different places provided that each meeting participant are able to:
  - i. Listen to each of other members of the Board to join speeches during the meeting;
  - ii. If desired, one can have a speech with all the other members simultaneously.

The exchange between the members can be done either directly by phone or by other means (including the use of this mean when this Charter is passed) or combination of all these methods. Under this Charter, the Board members participating in such that meeting are considered to be "present" at the meeting. The meeting venue which was held in accordance with this provision is the location decided by the largest group of the Board members, or if there is no such group, is the location where Chairman of the meeting presents.

The decision which was passed at a meeting held by telephone and conducted properly shall take effect as soon as the end of the meeting, but should be confirmed by the signature of all the Board members attending the meeting.

- m. Resolution in writing. The resolution in writing should be signed by all the members of the Board as following:
  - i. Members have the right to vote on the resolution at the Board meetings;
  - ii. The number of present members is not less than the minimum number of members to proceed in accordance with the Board meeting.

This kind of Resolution has effects and values as resolutions passed by members of the Board at a meeting convened and held as usual. Resolutions may be passed by using multiple copies of the same document if each copy that is signed by at least one member.

- n. Minutes of the Board meetings. Chairman of the Board is responsible for delivering the meeting minutes for the Board members and the minutes would have to be considered as evidence of the work which has been carried out in the meeting unless there is any objection to the content of the minute within ten days after the delivery. Minutes of meetings of the Board shall be made by Vietnamese and should be signed by all Board members attending the meeting.
- o. Committees of the Board. The Board may establish and authorize to affiliated committees. Members of the committee may include one or some members of the Board and one or some external members decided by the Board. In the process of performance of delegated powers, the committee should comply with the provisions proposed by the Board. These rules can be adjusted to allow the admission or who are not members of the Board at the above-mentioned committees and allow that person is entitled to vote as a member of the committees, but (a) to ensure the number of external members less than half the total number of committee members

and (b) the resolutions of the committee are valid only when the majority of the members attending and voting at the meeting subcommittee of the Board members.

- p. The legal value of action. The enforcement action decided by the Board or the committee under the Board, or the people as a committee member shall be deemed to be legally valid even in the case there are mistakes in election, appointment of committee members or the Board.

#### **18.8 Minutes of the Board Meeting**

- a. The meetings of the Board shall be recorded in minutes. Minutes shall be prepared in Vietnamese and possibly a foreign language, with the following main contents:
- i. Name, head office address, number and date of issuance of the business registration certificate, place of business registration;
  - ii. Purpose, agenda and content of the meeting;
  - iii. Time and venue of the meeting;
  - iv. Full name of each attendees or representatives authorized to attend the meeting, full names of the members absent to the meeting and reasons;
  - v. The issues to be discussed and voted on at the meeting;
  - vi. Summary of expressions of each attendees during the meeting;
  - vii. Voting results indicate members who agree, disagree and have no opinion;
  - viii. Decision was passed;
  - ix. Names and signatures of all members or their representatives authorized to attend the meeting.

Chairman and Secretary shall be responsible for the truthfulness and accuracy of contents of the minutes of the Board meetings.

- b. Minutes of the Board meetings and materials used at the meetings should be kept at the head office of the company.

#### **18.9 Rights to providing information of the Board members**

- a. The Board members may request Director or General Director, Deputy Directors or Deputy General Directors, managers of the company to provide information and documents about the financial situation, business operation of the company and of the units in the company.
- b. The manager who is required to provide information should provide timely, complete and accurate information and documents requested by the Board members.

### **Article 19. Management**

#### **19.1 Management System**

The Company shall adopt a management system under which the management organization shall be responsible to and under the leadership of the Board. The Company shall have a General Director, a number of Deputy General Directors, a Chief Accountant, other Management Officers and a number of executive managers all of whom shall be individuals of appropriate professional qualifications and experience.

#### **19.2 General Director and Deputy General Directors**

- a. The General Director shall be appointed and dismissed by the Board. His appointment shall be for a term of 4 (four) years and he may, subject to Board decision, serve further terms. His remuneration, welfare and other benefits and other employment terms and conditions shall be determined by the Board.
- b. The General Director shall be the Legal Representative of the Company in relations to all and any matters concerning its operations and management, including without limitation, representing the Company before the court and the State Authorities and executing on behalf of the Company any and all agreements with third parties. The duties of the General Director shall consist of carrying out the resolutions of the General Meeting of Shareholders and decisions of the Board and organizing and directing the day-to-day operation and



management of the Company in accordance with modern management practices and structures, all in good faith and for the benefit of the Company.

- c. Deputy General Directors shall reports to, cooperate with and assist the General Director.
- d. The Board shall determine the respective responsibilities of the General Director, the Deputy General Directors and shall delegate to them such powers and authorities as the Board shall see fit in order to enable them to carry out their duties in conducting the business of the Company.
- e. The General Director's rights and responsibilities include the following on behalf of the Company: tổ chức soạn thảo các kế hoạch kinh doanh và ngân sách với đầy đủ chi tiết để đệ trình lên Hội đồng Quản trị, hoặc trong trường hợp cần thiết, lên Đại Hội đồng Cổ đông;
  - i. organize the preparation of a sufficiently detailed business plan and budget for submission to the Board, or where applicable, the General Meeting of Shareholders;
  - ii. direct, manage and organize the implementation of business plans approved by and other decisions of the General Meeting of Shareholders or the Board, and report the results to the General Meeting of Shareholders and the Board in the manner stipulated;
  - iii. oversee the activities of the Company and its business generally;
  - iv. represent the Company before State Authorities and other Persons on all issues concerning the Company's activities within the framework of this Charter and the resolutions and decisions of the General Meeting of Shareholders or the Board;
  - v. sign and implement all contracts, agreements and other documents, except those that require approval of the Board or General Meeting of Shareholders as stipulated in this Charter or in resolutions of the Board or Shareholders;
  - vi. sign and implement employment contracts and reward, discipline, and dismiss Management Officers, other than himself or herself, staff and workers of the Company and determine their respective duties and responsibilities;
  - vii. manage the implementation of all management and operational rules and regulations approved by the Board;
  - viii. supervise all aspects of commercial strategy, finance and foreign exchange, but always within the limits set out by the Board;
  - ix. in accordance with any limits established by resolution of the General Meeting of Shareholders or the Board, pay out and receive cash on behalf of the Company, write and receive cheques on behalf of the Company and generally operate the accounts of the Company and deal with all financial, taxation and foreign exchanges issues; and
  - x. exercise such further powers and perform such further duties (A) as are not reserved to the General Meeting of Shareholders or to the Board or (B) as the General Meeting of Shareholders or the Board may by resolution confer or impose upon him and generally perform his duties in accordance with the directions of the General Meeting of Shareholders or the Board.
- f. The General Director may resign at any time provided that he gives such notice as is required by his employment contract to the Company.
- g. The General Director may be removed from office and replaced at any time by the Board, but without affecting any claim to damages for breach of any contract of service between the General Director and the Company.
- h. The General Director shall be responsible to the Board for the operations of the Company. The General Director shall have the right to make the final decision in respect of the management of the daily operations of the Company.
- i. Reflecting the importance of close communications between the Board and the management of the Company, the General Director shall attend Board Meetings as an observer, but shall not vote unless he is also a Board Member.
- j. The General Director and Deputy General Directors shall provide timely and sufficient information to the Inspection Committee when requested under Clause 21.1(b)(x).

### 19.3 Managers

- a. At the request of Managing Director or General Director and approved by the Board, the Company may use the number and type of managers necessary or appropriate to the structure and management practices proposed by the Board from time to time. Managers should have the necessary diligence for the organization and operation of the Company to achieve its objectives.
- b. Salary, compensation, benefits and other terms of labour contracts for managing Director or General Director shall be decided by the Board and contracts with the other managers shall be decided by the Board after consultation with managing Director or General Director.

#### **19.4 Chief Accountant**

The Chief Accountant, under the leadership of the General Director, shall be responsible for the financial management of the Company. Among his duties, the Chief Accountant shall organize the compilation of financial statements. The Chief Accountant shall report to the General Director and the Board, and in the event of a conflict of instructions between the Board and the General Director, the Board shall prevail. The Chief Accountant shall provide timely and sufficient information to the Inspection Committee when requested under Clause 21.1(b) (x).

#### **19.5 No Concurrent Offices**

The General Director and other Managers may not, unless agreed to the contrary by the General Meeting of Shareholders and permitted by Law, hold posts concurrently as the General Director or any other officer or employee of any other economic organizations in Vietnam. No employee of the Company, including the General Director and any other Management Officers of the Company, may be engaged or employed in Vietnam in any business which is deemed by the Board to be likely to be detrimental to the Company's interests.

#### **19.6 Secretary**

The Board shall appoint one (or more) to the Secretary of the Company with the terms and provisions determined by the Board. The Board may dismiss the Secretary as necessary but not inconsistent with the provisions of current laws on labor. The Board may also appoint one or more Assistants, Secretaries of the Company from time to time. The roles and duties of the Secretary include:

- a. Organizing meetings of the Board, Inspection Committee and General Assembly of Shareholders by the order of Chairman of the Board or the Inspection Committee;
- b. Making the minutes of meetings;
- c. Consulting on the procedures of the meetings;
- d. Providing financial information, copies of minutes of meetings of the Board and other information for the Board members of and the Inspection Committee.

The Secretary is responsible for information security in accordance with the law and the company's charter.

#### **19.7 Duties of loyalty and avoidance of interest conflicts**

- a. The Board members, managing Director or General Director and managers are not allowed to use the business opportunities which may bring benefits to the Company for personal purposes, and not used use the information gained through their position for their own benefits or for the benefits of another individuals or organizations.
- b. The Board members, Managing Director or General Director and managers are obliged to inform the Board of all the benefits that may conflict with the company's interests that they may get through other economic entities, transactions or individuals. The above objects may only use those opportunities when the Board members who have no relevant interests have decided not to investigate these problems.
- c. The company is not allowed to grant loans, guarantees, or loans to the Board members, managing directors or general directors, managers and their families or legal entities that have financial interest, unless the General Assembly of shareholders has other decisions.
- d. Contracts or transactions between the Company and one or more of the Board members, Managing Director or General Director, managers, or those related to them or Company, partners, associations, or organizations that one or more of the Board members, managers or related ones are members, or have involved financial interest shall not be disabled because

of above relationships, or because those members of the Board or managers participated in relevant meetings or the Board or committees who has allowed to implement contracts or transactions, or because the their votes are also counted as voting for such purposes, if:

- i. For contracts valued less than 20% of the total value of assets recorded in the most recent financial report, key elements of contracts or transactions as well as the relationships and interests of managers or the Board members have been reported to the Board or relevant committees. At the same time, the Board or that committee which has allowed to implement contracts or transactions honestly by majority approval votes of the Board members without relevant interests, or
- ii. For contracts valued greater than 20% of the total value of assets recorded in the most recent financial report, key elements of contracts or transactions as well as relationships and interests of managers or the Board members were announced for shareholders without relevant interests to have no voting rights on that issue, and those shareholders have approval votes for those contracts or transactions;
- iii. Contracts or transactions are appreciated as fair and reasonable by an independent consulting organization in all aspects relating to the company's shareholders at the time of transaction or these contracts are allowed to implement, approve or ratify by the Board or committees under the Board or shareholders.

The Board members, Managing Director or General Director, managers or their related people are not allowed to buy or sell or trade in any other forms of the company's shares or subsidiaries at the time when they get information that definitely affects the prices of shares and other shareholders do not know about this information.

#### **19.8 Liability and compensation for damages**

- a. Liability for damages. The Board member, Director or General Director and manager who breaches the obligations to act honestly, did not complete his duties with prudence and diligence and professional capacity shall be responsible for the damages caused by himself.
- b. Compensation. The Company shall compensate those who have been and are in danger of becoming a stakeholder in the complaint, lawsuit or prosecution which has been, is or may be carried out whether this is a civil matter, administration (which is not litigation by the Company or under the initiative of the Company) if such person is or has been a member of the Board, managers, employees or company's representatives (or an authorized subsidiary of the Company), or those which have work at the request of the Company (or a subsidiary of the Company) as the Board members, managers, employees or authorized representatives of an enterprise, partner, joint venture, trust or other legal entity. The compensation costs include costs incurred (including attorney's fees), judgment costs, fines, amounts which is payable or incurred in fact are regarded as reasonable to resolve the matters within the framework of the law, provided that such person acted honestly, carefully and diligently and with professional competence in a manner that he believes that it is for the benefit or not against the best interests of the Company, on the basis of compliance with the Law and no detection or confirmation that he has violated its responsibilities. The Company has the right to purchase insurance for him to avoid liability mentioned above.

### **Article 20. Certain Contracts should be approved by the General Assembly of Shareholders or the Board**

#### **20.1 Transactions with relating parties**

- a. Contracts or transactions between the company and the following subjects should be approved by the General Assembly of shareholders or the Board:
  - i. Shareholders, the authorized representatives of the shareholders own more than 35% of the common shares of the Company and their relating people;
  - ii. The Board Members, Director or General Director;
  - iii. Doanh nghiệp quy định tại điểm a và điểm b khoản 1 Điều 118 của Luật Doanh nghiệp và người có liên quan của thành viên Hội đồng quản trị, Giám đốc hoặc Tổng giám đốc. Enterprises prescribed in points a and b, Clause 1, Article 118 of the Enterprise Law and the relevant members of the Board, Director or General Director.
- b. The Board approves the contracts or transactions valued less than 50% of total value of enterprise assets recorded in the most recent financial report or a smaller percentage

specified in the company charter. In this case, the legal representative should submit to the Board members; listed at head office, branch of the company draft contracts or the main content of the transactions. The Board decides to approve the contracts or transactions within fifteen days from the date of listing; members with relevant interests have no voting rights.

- c. The General Assembly of Shareholders approves the contracts and other transactions except as provided for in paragraph 2 of this Article. The Board submits draft contracts or explanation on the main content of the transactions at the General Meeting of shareholders or collecting opinions in writing. In this case, the relevant shareholders have no voting rights; contracts or transactions are approved when a number of shareholders representing 65% of the total number of remaining votes agree.
- d. Contracts or transactions shall be void and treated in accordance with the Law after being signed or done without approval under the provisions of paragraph 2 and paragraph 3 of this Article. The legal representative of the company, or relating shareholders, members of the Board, and Director or General Director should compensate for damages incurred, return the company benefits gained from those contracts or transactions.

## **20.2 Voting right by Parties with Beneficial Interests**

Any Person who entered into or is related to or otherwise has beneficial interest in any Person entering into a Related Party Transaction with the Company, shall not have the right to vote on any matter relating to such Related Party Transaction, either at a General Meeting of Shareholders or at a Board Meeting.

## **20.3 Failure to Comply**

Any Person failing to comply with the provisions of this Article 20 shall indemnify the Company for any losses, claims, liabilities, costs and expenses incurred by the Company, and, to the maximum extent allowed by Law, the Company shall have the right to any benefit received by such Person from the relevant Related Party Transaction.

# **Article 21. Inspection Committee**

## **21.1 Members of the Inspection Committee**

- a. Number of members of the Inspection Committee shall be three (03) to five (05) members. The Inspection Committee should have at least one member who has expertise in accounting and finance. This member is not staff in the accounting and financial department of the company and is not a member or employee of the independent auditor auditing the financial statements of the company. The Inspection Committee shall appoint a member of the company's shareholders as a Head of the committee. Head of the Inspection Committee has the following rights and responsibilities:
  - i. Convening meetings of the Inspection Committee and working as Head of the Inspection Committee;
  - ii. Requesting the company to provide information relating to the reports of the Inspection Committee members;
  - iii. Preparing and signing the reports of the Inspection Committee after consultation with the Board to submit it to the General Meeting of Shareholders.
- b. Shareholders holding less than 10% of voting shares in a continuous period of at least six months may gather together to vote on the nomination of candidates to the Inspection Committee. Shareholders or group of shareholders holding less than 10% of the shares with voting rights in a continuous period of at least six months may nominate one member; from 10% to 30% nominate two members; from 30% to 50% nominate three members; from 50% to below 65% nominate four members and 65% or more nominate sufficient number of candidates.
- c. The members of the Inspection Committee are appointed by the General Assembly of Shareholders and the Inspection Committee's term does not exceed five (05) years, the Inspection Committee members may be re-elected for the unlimited terms.
- d. The Inspection Committee members are no longer members in the following cases:
  - i. That member is prohibited by law as members of the Inspection Committee;

- ii. That member may resign, but should submit a written resignation to the company's head office. Resignation should be approved by the Board and the General Assembly of Shareholders. In this case, that member should have resolved all of his job duties assigned in his terms and bear all damages (if any) caused by himself during his terms.
- iii. That member has a mental disorder and the others of the Inspection Committee have expertise evidences proving that he has no longer act capacity;
- iv. That member has been absent from meetings of the Inspection Committee continuously for six consecutive months, and during this time the Inspection Committee does not allow him to be absent and ruled that his position had been vacant;
- v. That member is dismissed from the Inspection Committee members as decision of the General Assembly of Shareholders.

**21.2 Rights and obligations of the Inspection Committee:**

- a. The Inspection Committee shall have the rights and responsibilities under the provisions of Article 123 of the Enterprise Law and this Charter, mainly the following rights and responsibilities:
  - i. Proposing selection of independent auditors, the audit fee and any issues relating to the withdrawal or dismissal of the independent auditors;
  - ii. Discussing with the independent auditors about the nature and scope of the audit before the audit begins;
  - iii. Asking for independent professional advices or legal advices, and ensure participation of experts outside the company with experience qualifications appropriate to the work of the company if necessary;
  - iv. Checking out the annual financial statements, six months and quarterly before submission to the Board;
  - v. Discussing about existing problems and difficulties found from the audit results in the midterm or final as well as any problems about that independent auditors wish to discuss;
  - vi. Reviewing the management letter of independent auditors and feedbacks of the company management committee;
  - vii. Considering the company's reports on internal control systems prior to Board approval, and
  - viii. Considering the results of the internal investigation and feedbacks of management committee.
- b. The Board Members, Managing Director or General Director and managers should provide all information and documents relating to the operation of the Company at the request of the Inspection Committee. The Company Secretary shall ensure that all copies of financial information, and other information provided to the Board members and copies of minutes of meetings of the Board shall be provided for the Inspection Committee members at the same time when they are provided to the Board.
- c. After consultation with the Board, the Inspection Committee may promulgate regulations on the meetings and the operation approaches of the Inspection Committee. The Inspection Committee shall has meetings at least twice a year and the number of attendees at least [two] people.
- d. Total remuneration for the Inspection Committee members shall be paid all expenses including travel, hotel and other expenses incurred properly when they participate in the meetings of the Inspection Committee or relevant business activities of the Company.

**21.3 Standards and conditions for the Inspection Committee members**

- a. The Inspection Committee members should have following standards and conditions:
  - i. Be from the age of 21 years or older, capable of civil act and not subject to being banned from the establishment and management of the enterprise in accordance with this Law;
  - ii. Be not a wife or husband, father, stepfather, mother, foster mother, child, adopted child, brother, sister of the Board members, Director or General Director and other managers.

- b. The Inspection Committee members shall not hold management positions of the company. The Inspection Committee members are not necessarily shareholders or employees of the company.

#### **21.4 Rights to providing information of the Inspection Committee**

- a. Meeting announcement, opinion form of the Board members and the accompanying documents are submitted to the Inspection Committee at the same time and in the manner as to the Board members.
- b. Reports of Director or General Director to the Board or other documents issued by the company are sent to the Inspection Committee members at the same time and in the manner as to the Board members.
- c. The Inspection Committee members have the rights to access the records and documents kept at the company's head office, branches and other locations, and the rights to arrive at the place where the managers and employees of companies are working.
- d. The Board, the Board members, Director or General Director, other managers should provide full, accurate and timely information, documents about management, operation, and business activities of the company at the request of the Inspection Committee.

#### **21.5 Remuneration and other benefits of the Inspection Committee members**

In case the company does not have charter provisions, the remuneration and other benefits of the Inspection Committee members shall comply with the following provisions:

- a. The Inspection Committee members are paid by the work and enjoy other benefits decided by the General Assembly of Shareholders. The General Assembly of Shareholders shall decide the total remuneration and annual operating budgets of the Inspection Committee based on the estimated number of working days, the quantity and nature of the work and the average daily remuneration of the members;
- b. The Inspection Committee members are paid expenses for meals, lodging, transportation, and cost of independent consulting services at reasonable rates. Total remuneration and expenses shall not exceed the total annual operating budget of the Inspection Committee approved by the General Assembly of Shareholders, unless the General Assembly of Shareholders has another decision;
- c. Remuneration and operating costs of the Inspection Committee shall be included in the business cost of the company in accordance with the Law on enterprise income tax, and the relevant Law and should be reported as a separate item in the annual financial statements the company.

### **Article 22. Obligations of the Company management**

In addition to the duties and responsibilities by the Law or the provisions of this Charter, each Member of the Board of Directors, Executive Board and Inspection Committee should:

- 22.1** Implement of all the assigned powers and duties with proper honesty, diligence and prudence and for the best interests of the Company;
- 22.2** Not abuse his power, not use the money and assets of the Company for the wrong purposes, for his benefits or others';
- 22.3** If the Company fails to pay all debts and other obligations, he should:
  - a. notify all creditors of the financial situation of the Company at the necessary extent or as required by the Law;
  - b. not increase salary or pay bonus for the Executive Board members or any employee of the Company;
  - c. propose measures to overcome financial difficulties of the company, and
  - d. perform other duties as prescribed by the Law and this Charter.

### **Article 23. Personal Liabilities and Responsibilities for payment of expenses**

#### **23.1 Personal Liability Exemption**

No Member of the Board of Directors, Executive Board and Inspection Committee should take personal responsibility for his actions or any action taken on behalf of the Company, for the

interests of the company, in accordance with the scope of his powers, or consistent with the scope of his delegated powers under this Charter or in accordance with the decisions of the General Assembly of Shareholders or the Board of Directors and the law approval.

### **23.2 Responsibility for Payment of Expenses**

Each Member of the Board of Directors, Inspection Committee and Executive Board, when acting honestly, shall be compensated by the Company's assets all expenses incurred by himself during the defense of civil or criminal proceedings, the court's judgment in this action is considered favorable for him, or he is acquitted, or the court clear his crimes related to carelessness, paying no debt, obligation violation, or breach of trust associated with the Company's operations.

## **Article 24. The Seal**

### **24.1 Maintenance of the Seal**

The seal shall be made and maintained in accordance with the Law.

### **24.2 Custody of the Seal**

The General Director shall have the exclusive custody of the seal and ensure the proper use of the seal.

## **Article 25. Files and Confidentiality**

### **25.1 Disclosure of Confidential Information**

Without the prior written consent of the Board, no Board Member, Management Officer, member of the Inspection Committee, Person acting subject to Clause 18.4(i), Shareholder or any other related Person shall disclose any Confidential Information, other than:

- a. to the subsidiaries of the Company (if any); or
- b. to the Shareholders to the extent provided in this Charter or as otherwise decided by the General Meeting of Shareholders; or
- c. to the Company's managers and employees or to its Auditors or professional advisers so far as they need to know the same for proper performance of their duties directly or indirectly in relation to the business of the Company but in each such case only upon terms which require the recipient of such information to keep such information confidential and not to disclose the same to any other Persons; or
- d. as required to be disclosed to any competent State Authorities which are entitled by Law to require disclosure of such information or as required to be furnished in any arbitration or legal proceedings but in each such case only to the extent so required; or
- e. to the extent that such information comes into the public domain otherwise than by the breach of the provisions of this Clause or would normally come into the public domain in the normal course of business, such as for sales and marketing purposes; or
- f. to the Shareholders or Directors of any Shareholder, as well as to a Shareholder's professional advisers and service providers, to the extent that such parties have undertaken in writing to comply with the obligations of this Clause.

### **25.2 Definition of Confidential Information**

For the purpose of this Clause, Confidential Information means all and any information, materials, paper, files, electronic files, written files, data, emails and other documents of any forms not available to the public, that are obtained, received, developed or otherwise possessed by the Company, the Board, Board Members, the Inspection Committee and/or its members, the Management Officers, employees, agents, or contractors during the ordinary course of business of the Company, and such other information, paper, files, data and other documents of any forms received from any third parties that are subject to a duty of confidentiality on the part of the Company, including the following:

- a. the Charter, the Business Registration Certificate, the Register and the Minute Book, and any State Consent necessary for the business of Company, including certificates of intellectual property rights (if any), or certificates of goods quality registration (if any);
- b. documents and papers certifying the title over Company's assets;

- c. the trade secrets or confidential knowledge, technology, know-how, techniques, designs, methods, and other information relating to the material transactions of the Company as may be decided by the Board from time to time;
- d. reports of the Inspection Committee, inspection organizations (if any) or the auditors;
- e. books of accounts, Annual Financial Accounts, and other accounting documents;
- f. information on Shareholder(s), any Shareholders' agreements or cross shareholding relationship or cross guarantee to which Shareholder(s) are parties; and any transactions between the Company and Shareholders;
- g. information on Board Members, Management Officers, and members of the Inspection Committee including their qualifications, experience and levels of remuneration;
- h. the Company's development and business plans and strategy; and
- i. information on reasonably foreseeable material risks that may affect the operation of the Company; interest rate or currency risks on any debentures or loans of the Company; risks related to derivatives and off-balance sheet transactions; and risks related to environmental liabilities. For the purpose of this paragraph, risks of which the Company has no knowledge or which is unreasonably foreseeable shall not be treated as reasonably foreseeable material risks.

### **25.3 Company's Filing System**

- a. Company shall file the following documents:
  - i. Company Charter; changes and additions to the Company Charter; mechanism of Company's internal management; the Register
  - ii. Business Registration Certificate; changed Business Registration Certificate; certificate of industrial property right; certificate of goods quality registration;
  - iii. documents and papers certifying the title over Company's assets;
  - iv. Minutes of General Meeting of Shareholders, and the Board; approved decisions;
  - v. portfolio reports to issue securities;
  - vi. reports of the Inspection Committee; inspection organizations or the auditors;
  - vii. books of accounts, Annual Financial Accounts, and other accounting documents;
  - viii. other documents in accordance with Law.
- b. The Company has to file the above stated documents at Head Office or other places but has to inform Shareholders and Licensing Authority. Filing period is subject to the Law.

### **25.4 Disclosure to Potential Buyers**

As long as Shares have not been listed on a Stock Exchange Centre, a Shareholder who wishes to sell some or all of his Shares shall be entitled to provide Confidential Information to potential buyers, provided that (i) the potential buyer has first signed a binding Confidentiality Agreement which prohibits any further disclosure and any use of the Confidential Information by the recipient; (ii) a copy of such Confidentiality Agreement, together with a legal opinion on the enforceability of such Agreement by the Company, has first been received by the Board; and (iii) the potential buyer which is to receive the Confidential Information is not a competitor or reasonably perceived as a potential competitor.

## **Article 26. Labour**

### **26.1 Signing Labour Contracts**

The Deputy General Director, the Chief Accountant and each of the employees of the Company, shall sign separate labour contracts with the General Director. The General Director shall sign a labour contract with the Board, represented by the Chairman of the Board.

### **26.2 Other Labour Matters**

All matters relating to employees of the Company, including labour contracts, collective labour agreement, working time and holidays, salary, social insurance, recruitment, training, labour inspection, labour dispute settlement and such other related matters shall be decided by the General Director in accordance with the Law.



### **26.3 Labour Union**

Employees of the Company are entitled to establish a labour union and participate in other socio-politic organizations in accordance with the Law. Such labour union and organizations in the Company shall operate in accordance with the Law.

### **Article 27. Provisions of Information about Company's Activities**

- 27.1** Any notices subject to this Charter shall be made in writing and sent to the recipients in person or by registered letter, or by EMS, or by fascimile, or by email (followed by the original version sent by registered letter) at the addresses written in the Register.
- 27.2** Notices shall become effective after 8 (eight) days from the postmark dated if notices are sent by airmail and 2 (two) working days if they are sent by fascimile, email or EMS.
- 27.3** Where there are joint Shareholders of a Share, notices shall be sent to the Shareholder whose name stands first in the Register and notices sent to this Shareholder shall consider to inform fully to other joint Shareholders.
- 27.4** The Company shall make good faith effort to ensure the accuracy of addresses written in the Register, and shall correct addresses of Shareholders if receive written notices of changed addresses from these Shareholders.
- 27.5** The Company shall not deliberately use any means of communications which are considered unreliable and can cause considerable delay.

## **Chapter IV**

### **FINANCE AND ACCOUNTING STATISTICS, PROFITS DISTRIBUTION**

#### **Article 28. Fiscal Year**

The fiscal year as well as the tax year of the Company shall be from 01 January to 31 December of the calendar year. The first fiscal year shall commence on the date of issue of the Business Registration Certificate and shall end on 31 December of that year.

#### **Article 29. Accounting Summation**

##### **29.1 Accounting System**

Books of account shall be maintained by the Company in accordance with Law and in a fair and accurate way. Where permitted by Law, the Company shall adopt International Accounting Standards (IAS). Otherwise, the Company shall adopt Vietnamese Accounting System (VAS) but, for financial reports to Shareholders and the Board, shall make the following disclosures which may not be required by VAS:

- a. consolidated financial statements;
- b. statement of cash flows;
- c. contingent and off-balance sheet liabilities; and
- d. details of Related Party Transactions.

##### **29.2 Accounts and Records**

- a. The Company shall open any accounts including Vietnamese Dong accounts or foreign currency accounts, nonresident accounts, fixed time limit accounts or other accounts, at the branch of foreign bank in Vietnam, or at a joint-venture bank, or at a Vietnamese bank subject to the choice of the Board, and (if permitted by the State Bank and requested by Law) at a foreign bank outside Vietnam.
- b. The Company shall maintain its books and accounts in Vietnamese Dongs. The books and accounts may be converted into United States Dollars if requested by the Board.
- c. All accounting records, vouchers, books and statements of the Company shall be made and kept in the Vietnamese language. All important financial and accounting records and statements shall require the approval and signature of the General Director and the Chief Accountant.
- d. The company should establish the annual financial statements in accordance with the Laws and regulations of the State Securities Commission and the reports should be audited in accordance with the law, and within 90 days after the end of each fiscal year, and submit annual financial statements approved by the General Assembly of shareholders to the competent tax authority, the State Securities Commission, stock exchange/ Securities Trading Center and business registration agencies.
- e. Annual financial statements should include the statement of business activities, reflect an honestly and objectively the situation of profits and losses of the Company during the fiscal year and the balance sheet reflects honestly and objectively the situation of the company's operation until the date of statements, cash flow statements and notes of financial statements. In case the Company is a holding company, in addition to the annual financial statements, there should also be the aggregate balance sheet of the Company operation and its subsidiaries at the end of each fiscal year.
- f. At the end of each fiscal quarter, the Company shall prepare unconsolidated and consolidated financial statements for such quarter consisting of a balance sheet, an income statement and a cash flow statement, including explanatory notes, all prepared in conformity with VAS or where VAS is unclear or incomplete, in conformity with IAS insofar as it does not conflict with VAS (the Quarterly Financial Accounts). These shall be provided to the Board and each Shareholder within 30 days of the end of each fiscal quarter.
- g. If the Board requires, an independent firm of auditors of international repute permitted to operate in Vietnam shall be engaged by the Company as the Auditor to audit Annual Financial Accounts and the annual consolidated accounts, and submit its report to the

General Meeting of Shareholders, the Board and the General Director. The General Director shall submit to the General Meeting of Shareholders and to each Board Member the audited annual accounts within three months after the end of the fiscal year together with the audit report of the auditors. The Board shall issue a report which states whether in the opinion of the Board Members the Annual Financial Accounts and annual consolidated accounts present a true and fair view of the state of business of the Company and of its results for the relevant year and which comment upon the performance and operations of the Company for the relevant year. The fees and expenses incurred by the Auditor appointed and retained in accordance with this Clause shall be for the account of the Company.

- h. In case that reputable auditing firms decline to serve as the Company's auditor due to poor presentation or likelihood of qualifications, the Company shall immediately take such steps to improve the quality of its financial reporting as are necessary to enable reputable auditing firms to serve as the Company's auditor.
- i. Board Members shall have the right to meet with the Auditor to discuss the Company's financial accounts and related matters.
- j. Only if approved by the Board, each Shareholder, or a Group of Shareholders collectively, holding more than 10% of the Shares shall have the right to hire and auditor of his/her choice to audit the Company's unconsolidated and/or consolidated financial accounts at any time at the expense of such Shareholder or Group of Shareholders.
- k. Board Members and members of the Inspection Committee shall have the right to review the Company's accounts at any point in time upon demand, and the Company shall provide full cooperation in any such review.

### **29.3 Information disclosure and announcement to the public**

The annual financial statements and other supporting documents should be released to the public under the provisions of the State Securities Commission and submitted to the relevant tax authorities and business registration agencies in accordance with the Enterprise Law.

### **Article 30. Profits Distribution and Reserve Funds Creation**

The Board may create, whether out of the profits of the Company or as otherwise allowed by the Law, such reserve funds and for such purposes as it sees fit.

Annual net profit after performing all financial obligations to State Authority, the Board shall decide reserve funds creation and promulgate regulations of using funds. Funds are estimated to allocate as follows:

- Compulsory reserve fund: minimum 5% to 10% of Charter Capital
- Business development funds: minimum 15%
- Reward and benefit fund: minimum 10%

Principle of business profits and loss distribution shall be allocated to Shareholders in accordance with pro rata portion of the capital contributed.

### **Article 31. Payment of Dividends**

#### **31.1 Declaration of Payment of Dividends**

- a. Dividends paid to common shares are determined on the net profits made and the dividend payments are deducted from the retained profit of the company. Company only pay dividends of common shares when fully satisfying the following conditions:
  - Company has completed its tax obligations and other financial obligations as prescribed by the Law
  - Company has set up funds and paying off prior losses in accordance with the Law and company charter;
  - As soon as payment of the dividends, company could guarantee the payment of all due debts and other financial obligations.
- b. Pursuant to decisions of the General Meeting of Shareholders to declare dividends, the Board shall determine the time and methods for payment of dividends no later than 30 (thirty) days prior to each payment of dividend. Notice of payment of dividends shall be sent to all

Shareholders not less than 15 (fifteen) days before performing payment of dividends and subject to the Law.

- c. Dividends may be paid in cash at the Office, or by cheque, by bank transfer to such bank account within Vietnam as the Shareholder directs, or by Shares subject to the approval of General Meeting of Shareholders or the Law. The costs and expenses incurred for sending cheques or money transfer shall be born by Shareholders and shall be withheld by the Company from their dividends. The payment of taxes imposed on the dividends shall be for the account of the Shareholders.
- d. In case of each single Shareholder, (i) the receipt signed by him, if dividends are paid in cash, or (ii) a transfer advice issued by the transferring bank designated by the Company which specifies the financial institution and account number designated by him, if dividends are paid by bank transfer, or (iii) such other evidence as to the sending of the cheque to his latest address as shown in the Register or a copy of cheque signed by him, if dividends are paid by cheque, or (iv) other documents or records of the Company evidencing the payment of shares, shall be conclusive evidence as to the satisfaction and full discharge of the Company's payment obligations in respect of dividends payable to such Shareholder.
- e. In case of joint Shareholders of a Share or a number of Shares, (i) the receipt signed by anyone of such joint Shareholders, if dividends are paid in cash, or (ii) a transfer advice issued by the transferring bank designated by the Company which specifies the financial institution and account number designated by one of the Shareholders, if dividends are paid by bank transfer, or (iii) such other evidence as to the sending of the cheque to his latest address of anyone of the joint Shareholders as shown in the Register or a copy of the cheque signed by any of them, if dividends are paid by cheque, shall be conclusive evidence as to the satisfaction and full discharge of the Company's payment obligations in respect of dividends payable to all those joint Shareholders.
- f. Dividends payable to Shareholders shall be made in VND. If requested and to the extent permitted by Law and possible in practice, the Company shall at the expense of the Shareholders convert the dividends into US Dollars or other foreign currencies before payment to the Shareholders.

### **31.2 No Interest for unpaid dividends**

The Company shall not pay interest for unpaid dividends.

### **31.3 Unclaimed Dividends**

All dividends which were divided but not received by Shareholders shall be invested or used for other purposes for the benefit of Company until the Shareholders receive.

## **Article 32. Payment Reclamation of Repurchased Shares or Dividends**

Payment reclamation of repurchased Shares or dividends occurs in the following cases:

- If the payment to repurchased Shares is contrary to Article 15
- Or payment of dividends is contrary to Article 31 of this Charter

Shareholders have to return to the Company proceeds and other assets received; if a Shareholder fails to return such payment, that Shareholder and members of the Board have to be jointly responsible for the Company's debts.

## **Article 33. Reclamation of Returned Capital**

If returning capital because of Charter Capital reduction is contrary to Article 15 of this Charter, Shareholders have to return proceeds or other assets to the Company or be jointly responsible for debts equal to reduced capital.

## **Chapter V**

### **RESTRUCTURING AND DISSOLUTION**

#### **Article 34. De-merger and Merger, Consolidation, and Transformation of the Company**

The General Meeting of Shareholders shall have the right to decide on the restructuring (including consolidation, merger, de-merger, division or other forms of restructure possible under Law) or dissolution of the Company. Any restructuring or dissolution shall be carried out in the manner decided by the General Meeting of Shareholders in accordance with the Law.

#### **Article 35. Company Dissolution and Assets Liquidation**

##### **35.1 Dissolution**

- a. The Company may be dissolved or terminated in the following circumstances:
  - i. Upon the expiration of the Company's activities, even after extended;
  - ii. The Court declares the company to bankrupt in accordance with the current Law;
  - iii. Dissolution prior time decided by the General Assembly of Shareholders.
  - iv. Other cases prescribed by the Law.
- b. The dissolution of the company prior time (including the extended period) is implemented by the General Assembly of Shareholders and the Board. This decision should be noted or approved by the competent authority (if required) as prescribed.

##### **35.2 In case of deadlocks between the Board members and Shareholders**

Unless this Regulation has other provisions, the shareholders holding half the outstanding shares entitled to vote in the election of the Board members have the right to file a complaint with the court to request the dissolution as the following basis:

- a. The Board members are not unified in management of the company, which leads to the failure to achieve the necessary number of prescribed votes for the Board to operate.
- b. The shareholders do not unify, which leads to the failure to achieve the necessary number of prescribed votes for the election of the Board members.
- c. There is disagreement in the internal and two or more factions of divided shareholders, so dissolution would be the most beneficial option for all shareholders.

##### **35.3 Operation extension**

- a. The Board shall convene a General Meeting of Shareholders at least seven months before the operation expiration for shareholders to vote on the extension of the Company operation at the request of the Board.
- b. The duration of operation shall be extended when 65% or more of the total votes of the shareholders entitled to vote present directly or through an authorized representative presenting at the General Meeting of Shareholders.

##### **35.4 Assets Liquidation**

- a. At least six months before the expiration of the Company operations or after a decision to dissolve the Company, the Board should establish the liquidation Commission of [three] members. Two members are appointed by the General Assembly of shareholders and one by the Board from an independent auditor. The liquidation Commission shall prepare rules of operation. The members of the liquidation Commission may be selected among the employees of the Company or independent experts. All expenses related to the liquidation of shall be preferred prepayment of other debt of the Company.
- b. The liquidation Commission shall report to the business registration agency for the date of establishment and operation start. Since that time, the Commission shall be representative on the company to do all work relating to the liquidation before the court and administrative agencies.
- c. Proceeds from the liquidation shall be paid in the following order:

- i. The liquidation expenses;
- ii. Wages and insurance costs of for employees;
- iii. Taxes and payments of property taxes that the Company shall pay to the State;
- iv. Loans (if any);
- v. Other debts of the Company;
- vi. The balance remaining after payment of all debts from above items from (i) to (v) shall be distributed to the shareholders. The preference shares shall prioritize prepayment.

## **Chapter VI**

### **FINAL PROVISIONS**

#### **Article 36. Principles of Dispute Resolution**

##### **36.1 Informal Dispute Resolution**

- a. A Dispute (i) between Shareholders or Groups of Shareholders, or (ii) between Shareholder(s) and the Board, or (iii) between Shareholder(s) and Management Officer(s), or (iv) between Shareholder(s) and the Inspection Committee, shall be first referred to mutual consultation and negotiations for a period of 30 (thirty) days.
- b. If a Dispute is not settled pursuant to Clause 36.1(a) within the time allowed therein, any party may give a notice of such Dispute ("Notice of Dispute") to the Chairman requesting (i) the Board's resolution in respect of Disputes in paragraphs (i) and (iii) of Clause 36.1(a), or (ii) the resolution by the General Meeting of Shareholders in respect of Dispute in paragraphs (ii) and (iv) of Clause 36.1(a). The Chairman shall forthwith convene a Board Meeting or, as the case may be, a General Meeting in accordance with the formalities set out herein.

##### **36.2 Unresolved Disputes**

- a. In case there is no decision on reconciliation within [six] weeks from the start of the conciliation process or if the decision of the mediator is not accepted by the parties, any party may refer the dispute to the economics Arbitration or economics Court.
- b. The parties shall bear their own costs relating to the negotiation and mediation procedures. The court cost shall be ruled to suffered party by the court.

This Charter continues in effect during the dispute, but does not affect the dispute resolution process.

#### **Article 37. Effective Date**

This Charter shall become effective from the date the General Assembly of Shareholders ratified and noted to Department of Planning and Investment about modifications and additions to the Charter.

#### **Article 38. Modifications and Additions to the Charter**

- a. The addition and modification to this charter should be approved by the General Assembly of shareholders.
- b. In case the provisions of the Law related to the Company operation are not mentioned in this Charter or the new rules of the Law are different from the provisions of this Charter, those provisions shall be automatically applied to adjust the Company operation.

#### **Article 39. Other terms**

##### **39.1 Illegal, invalid or impossibly enforceable terms**

If the State authority agency claims or judges that any one or more of the provisions of this Charter is illegal, invalid or not enforceable under the provisions of the Law, that or those terms shall be considered to be removed from the Charter in all cases, and the other provisions of the Charter remain valid.

##### **39.2 Written Consent of the State**

Any obligations of application for the written consent of the State referred to in this Charter, whether explicitly specified or implied, are valid only if this written consent of the State is required under the provisions of the Law.

##### **39.3 Cumulative Nature of Rights**

Without other provisions stated explicitly, the rights and remedies in this Charter are cumulative and not excluded any right and remedy prescribed by the Law.

#### **Article 40. Final Provision**

- 40.1** This Charter including 06 Chapters, 40 Articles and 01 Appendix was approved by the Board of HPT Vietnam Corporation and unanimously passed by the authorization of the Annual General Assembly of Shareholders in 2012.
- 40.2** This Charter is unique and official one of the company. This Charter is made in 10 (ten) copies with the same validity , including:
- a. 01 (one) copy shall be retained at Licensing Authority
  - b. 05 (five) copies shall be registered at the authorities under the provisions of the Provincial or City People's Committee
  - c. 04 (four) copies shall be stored at Head office of the company.
- 40.3** Copies or excerpts of this Article shall be valid if they are signed by Chairman of the Board, authorized people, or at least  $\frac{1}{2}$  (one second) of total members of the Board.



## Appendix

# DEFINITIONS

**Annual Financial Accounts** has the meaning ascribed to it in Clause 29.2 (d);

**Annual Meeting** means an annual General Meeting referred to in Clause 17.2 (a).

**Auditors** means the auditors of the Company as is engaged in accordance with Clause 29.2 (f);

**Board** means the board of management of the Company appointed and having such powers and duties as set out herein;

**Board Meeting** means any meetings of the Board;

**Business Registration Certificate** means a business registration certificate issued by the Licensing Authority to establish the Company as may be amended or supplemented from time to time;

**Call Option** means an option under which the holder has the right, but not the obligation, to buy a specified number of Shares from the issuer of the option on specified terms or conditions.

**Charter** means this Charter of the Company as may be amended and supplemented from time to time;

**Charter Capital** means the charter capital of the Company as referred to in Article 6 of this Charter;

**Chief Inspector** means the chief of the Inspection Committee;

**Company** means the joint stock company established and operating in accordance with this Charter;

**Confidential Information** has the meaning ascribed to it in Clause 25.2;

**Connected Person** of a person means (i) the spouse, parent, aunt, uncle, grandparent, brother, half-brother, brother-in-law, sister, half-sister, sister-in-law, child, step-child, son-in-law, daughter-in-law, grandchild or children of sister or brother of parent of such person; (ii) anyone sharing the same household premises with such person; (iii) any corporate person at least 10% of which is owned directly or indirectly by such person either alone or together with the persons in (i) and (ii) above; (iv) any corporate person whose management is directed either directly or indirectly by such person either alone or together with the persons in (i) and (ii) above; (v) anyone else defined as a related person by Article 3.14 of the Law on Enterprises, as may be amended from time to time; or (vi) any nominee of such person, including for the purpose of entering into any transaction which would otherwise constitute a Related Party Transaction.

**Dispute** means any question, dispute, controversy, difference or claim arising out of or relating to this Charter or the breach, termination or validity thereof;

**Enterprise Law** means the Law on Enterprises No.60/2005/QH11 passed by the National Assembly on 29<sup>th</sup> December, 2005;

**Extraordinary Meeting** means a meeting of the General Meeting of Shareholders other than an Annual Meeting, as convened pursuant to Clause 17.2 (b);

**Founding Shareholder** means a Shareholder who initially adopts this Charter to establish the Company, whose name, address and interest in the Charter Capital is set out in Clause 7.1 of this Charter;

**General Meeting of Shareholders** or **General Meeting** means the highest authority of the Company having the powers set out in this Charter and operating in accordance with this Charter and the Law;

**Inspection Committee** means an inspection committee of the Company having the powers and duties set out in this Charter and operating in accordance with this Charter and the Law;

**Law** or **Laws** means the Law on Enterprises, Decree 03, Decree 48 and all other applicable laws, decrees, decisions, circulars, regulations and other documents having the effect of law issued by any State Authority (as the same may be amended, supplemented or replaced from time to time) and which are applicable to the Company;

**Licensing Authority** means the Department of Planning and Investment of Ho Chi Minh City or such other State Authority as may, at the relevant time, have the responsibility and authority under the Law to license and supervise the incorporation, extension and/or operation of the Company;

**Management Officers** mean the General Director, Deputy General Director(s) and the Chief Accountant, heads of divisions and such other management positions as the Board identifies as management positions from time to time;

**Minute Book** means a book storing all the minutes of the General Meetings and Board Meetings;

**Month** means calendar month;

**Office** means the registered office of the Company as may be changed from time to time in accordance with this Charter and the Law;

**Person** means any individual, corporation, joint venture, association, trust, organization, bank, financial institution or State Authority or other entity with legal capacity under the Law, including any Board Members, Management Officers, members of the Inspection Committee, Shareholders, or any employees of the Company;

**Put Option** means an option under which the holder has the right, but not the obligation, to sell a specified number of Shares to the issuer of the option on specified terms or conditions.

**Related Party Transaction** means a transaction, including but not limited to a loan, an agreement for the sale or purchase of assets, an agreement for the sale or purchase of shares in the Company, a guarantee or any other contingent liability, entered into between the Company and any of the following Persons: (i) a Board Member, (ii) a Management Officer, (iii) a member of the Inspection Committee, (iv) a Shareholder or a Group of Shareholders holding more than 10% of the Shares, or (v) any Connected Person of any of the Persons covered by (i) to (iv); and the term shall also be deemed to include any commission or similar payment or benefit received by any Person listed in (i) to (vi) above, whether from the Company or any third party, that arises directly or indirectly out of or in connection with any transaction entered into by the Company.

**Register** means a register to be established and maintained by the Company in accordance with Article 11;

**Shares** mean ordinary shares issued by the Company in accordance with this Charter and Share means any of them;

**Share Certificates** means certificates issued by the Company in accordance with Article 9 of this Charter evidencing the ownership of the related amount of Shares by a particular Shareholder and **Share Certificate** means any of them;

**Shareholder** means a shareholder of the Company having the rights and obligations as set out in this Charter;

**Simple Majority Vote** means the vote of at least 51% of the total voting Shares of all attending Shareholders represented in person or by proxy in a General Meeting;

**State Authority** means any and all of the following: the National Assembly of Vietnam, the Standing Committee of the National Assembly of Vietnam, the President of the State of Vietnam, the Government of Vietnam, the Prime Minister, the Government Office, any Ministries, any People's Committees or any of its agencies, departments or bodies, and any and all other committees, ministers, councils, agencies, bodies or officers whose consent, approval, registration, commitment, involvement or consultation is required or desirable in the opinion of the Company for anything or matter referred to in or contemplated by this Charter;

**State Consents** means such consents, licenses, permits, registration or other authorizations within the control of State Authorities as are necessary or desirable in order for the Company to carry out its business and/or perform such other activities as are contemplated by this Charter or by Law;

**Supermajority Vote** means the vote of at least 65% of the total voting Shares of all attending Shareholders represented in person or by proxy in a General Meeting;

**Total Assets** means the total assets of the Company as recorded in the Company's books of accounts from time to time;

**Vietnam** means the Socialist Republic of Vietnam;

**VND** or **Dong** means the lawful currency of Vietnam;

**in writing** means written, printed, typewritten or expressed in any other mode representing or reproducing words, or partly one and partly another; and

**Year** means calendar year.

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