

# **LAW ON COMMERCIAL ENTERPRISES**

## **Chapter 1 – General Provisions**

### **Article 1: Scope**

This law applies to a partnership and company carrying on business in the Kingdom of Cambodia. A partnership composes of a general partnership and a limited partnership. A company composes of a private limited company and public limited.

### **Article 2: Definitions**

- (1). **"person"** includes a natural person and a legal person.
- (2). **"Registrar"** means the Registrar appointed pursuant to the Law on Commercial Rules and Register.

**"Registrar's Office"** means the office created pursuant to the Law on Commercial Rules and Register.

**"subsidiary"** means a partnership or company controlled by another partnership or company, called a **"parent"**

- (a) In the case of a subsidiary partnership, the parent partnership owns at least a majority of the interest of the subsidiary.
- (b) In the case of a subsidiary company, the parent company owns at least a majority of the company's voting shares.

### **Article 3: Registered agent and registered office**

A partnership or company shall continuously maintain in the Kingdom of Cambodia, a registered office and a registered agent.

A partnership or company shall file with the Registrar the specific location of the registered office, including street address, and mailing address in the Kingdom of Cambodia, if different from the street address.

A partnership or company shall file with the Registrar the name of the registered agent. The registered agent shall be a legally competent natural person. The registered agent shall have authority to receive official papers and documents, including summonses and subpoenas from the courts, on behalf of the partnership or company.

A partnership or company shall file with the Registrar any changes to the registered office or registered agent within fifteen (15) official business days after the change takes effect.

Any company that incorporated under this Law shall govern by the laws of the Kingdom of Cambodia.

**Article 4: Delivery of documents**

Documents of any description required by law to be delivered to a partnership or company shall be delivered to the registered agent at the registered office during the normal business hours of the partnership or company, unless another method is specified by law.

Alternatively, the documents may be delivered to a partner in the case of a general partnership, a general partner in the case of a limited partnership, or a director in the case of a company.

If delivery cannot be made by the methods above, the documents may be delivered to the Registrar who shall mail them to the last known address of the partnership or company as shown on the Registrar's records. Delivery to the Registrar shall be considered delivery to the partnership or company

**Article 5: Use of Khmer name**

A partnership or company shall display its name in the Khmer language. The Khmer name shall be placed above and shall be larger than the name in another language. The translation of company's name from one language to another language shall be prohibited. The Khmer name shall sound phonetically the same as the name in the other language.

A partnership or company shall display the Khmer name on all seals, signs letterhead, and forms and documents used for public purpose, and on all public advertisements displayed on land, on water or in the air within the Kingdom of Cambodia.

A partnership or company may use and be designated by a name in another language outside of the Kingdom of Cambodia.

**Article 6: Non-payment of fees, fines, interest and penalties**

A partnership or company that has failed to pay any fee, fine, interest or penalty which is owed to the Ministry of Commerce shall be barred from filing any lawsuit or asserting any defense in any civil lawsuit against it until all such fees, fines, interest and penalties have been paid in full.

This section does not bar a partnership or company from filing or defending a lawsuit to determine whether the fee, fine, interest or penalty is owed.

If a party alleges that a partnership or company owes a fee, fine, interest or penalty to the Ministry of Commerce, the partnership or company may submit a receipt to the court. The court shall accept the receipt as proof of payment until proven otherwise.

**Article 7: Annual declaration**

Each partnership or company shall file an annual declaration with the Ministry of Commerce concerning the status of the partnership or company.

## **Chapter 2 – General Partnerships**

### **Part 1. General Provisions**

#### **A. The Establishment of a General Partnership**

##### **Article 8: Nature of partnership**

A general partnership is a contract between two or more persons to combine their property, knowledge or activities to carry on business in common with a view to profit.

##### **Article 9: Form of contract**

The contract of general partnership may be verbal or in writing. If the general partnership contract is in writing, all partners shall sign it.

##### **Article 10: Rules of determining existence of partnership**

When the contract is ambiguous the court shall consider the following rules to determine whether the parties had a common intention to form a general partnership:

- (a) The fact that two or more persons jointly own property, whether the persons share in the profits made by the property or not, whether a general partnership does by itself create a partnership by the property or not.
- (b) The fact that two or more persons share the gross receipts from commercial activity, whether or not the persons have joint or common rights in any property that generates the receipts, whether a general partnership does by itself create a partnership by joint or common rights in any property.

##### **Article 11: Date of creation**

When a general partnership is formed, the parties are bound to the contract at the time the contract is made, unless the contract states otherwise.

##### **Article 12: Legal personality**

A general partnership has a legal personality separate from that of each of its partners. A general partnership shall acquire legal personality when it registers in accordance with the Law on Commercial Rules and Register, and shall have the following rights.

- (a) to own movable and immovable property in its own name;
- (b) to carry on business in its own name;
- (c) to contract in its own name; and
- (d) to sue and be sued in its own name.

##### **Article 13: Nationality**

A general partnership that has acquired legal personality shall be deemed to be of Khmer nationality only if:

- (a) The general partnership has a place of business and a registered office located in the Kingdom of Cambodia; and

- (b) More than 51% of the record ownership interest in such general partnership is held by natural or legal persons of Khmer nationality.

**Article 14: Name of partnership**

The name of a general partnership shall include the name of one or more of the partners, and the words "General Partnership" shall be placed at the end or below the name. A general partnership shall use its name when carrying on business.

**Article 15: Liability for registration, filing and publication**

Each partner is individually responsible for complying with the registration, filing and publication requirements for the general partnership.

**B. Relations of Partners to One Another**

**Article 16: Nature of partner's contribution**

Each partner may:

- (a) Contributions to the general partnership in cash, in kind, in past services actually rendered or future services.
- (b) Contribution in services consists of the general partner's knowledge or activities, but shall not consist of the exercise of influence obtained from public officials.

**Article 17: Partner's debt for contribution**

Each partner is a debtor to the general partnership for everything he promises to contribute to it.

**Article 18: Contribution of property**

When a partner undertakes to contribute property, the partner shall transfer the rights of ownership or enjoyment and shall place the property at the disposal of the general partnership.

**Article 19: Monetary contribution**

When a general partner undertakes to contribute a sum of money and fails to do so, the general partner is liable for interest from the day his contribution should have been made, subject to any additional damages which may be claimed from him.

**Article 20: Contribution of knowledge or activities**

When a general partner undertakes to contribute knowledge or activities, the general partner owes the obligation continuously as long as he remains a general partner.

The written general partnership contract, the books and records of the general partnership shall indicate whether a general partner's contribution consists of knowledge, services or activities.

**Article 21: Capital of the partnership**

The capital of the general partnership shall include the contributions in cash and in kind. The contributions in kind shall be valued and all general partners shall agree to this valuation.

The computation of the general partnership's capital shall not include contributions of knowledge, services or activities.

**Article 22: Currency of capital**

The capital of a general partnership shall be calculated in the national currency.

**Article 23: Participation in profits and losses**

Each general partner shares in the profits and losses of the general partnership.

A contract provision that excludes a general partner from sharing in the profits is not effective.

A contract provision that exempts a general partner from the obligation to share in the losses is not effective against third parties.

**Article 24: Allocation of partner's interest**

The proportion of the interest of each general partner in the assets, profits and losses is equal unless otherwise provided in the contract.

If the contract establishes a general partner's interest by referring only to the assets, profits or losses, the proportion established in that case is presumed to apply to all three cases.

**Article 25: Partner accountable to partnership**

Each general partner shall account to the general partnership for all benefits and profits the general partner derives without the unanimous consent of the other general partners from any transaction connected with the business of the general partnership or from the use of partnership property. The general partners may not waive this obligation.

**Article 26: Partner's entitlement to wages**

No general partner is entitled to wages for employment in the general partnership business.

**Article 27: Liability for damage**

A general partner is liable to the general partnership for damages caused the general partner's fault.

**Article 28: Disbursement on behalf of the partnership**

A general partner, acting in good faith, has the right to recover the amount of the disbursements he makes on behalf of the general partnership and to indemnification for contractual obligations he makes and losses he suffers in acting for the general partnership.

**Article 29: Receipt of amount by a partner**

This article applies where

- (a) a general partner, on his own behalf, and the general partnership are both creditors of the same debtor;
- (b) both debts are payable; and
- (c) the debtor pays the general partner, but not the general partnership. In this case, the amount the general partner receives shall be allocated proportionately to the personal claim and the general partnership's claim.

**Article 30: Partner and partnership's property**

Each general partner may use the property of the general partnership, provided he uses it in the interest of the general partnership.

Each general partner may use the property of the general partnership for his personal use provided that he obtains the unanimous consent of the other general partners.

Each general partner shall use the property of the general partnership in such a way as not to prevent the other general partners from using it, as they are entitled.

**Article 31: New partner**

No natural or legal person may become a general partner without the unanimous consent of all general partners.

A general partner may assign his right to receive moneys to which he is entitled without the consent of other general partners. This assignment does not make the recipient a general partner in the general partnership.

**Article 32: Transferability of partner's interest**

A general partner may transfer his interest in the general partnership with the unanimous consent of all general partners.

**Article 33: Partner's interest as guarantee**

The share of a general partner in the assets or profits of the general partnership may be used as a guarantee of personal obligations of that general partner. Such a guarantee shall be given with the unanimous consent of the general partners.

Any agreement to the contrary is not effective.

**Article 34: Management of partnership – general**

The general partners may decide their respective powers in the management of the affairs of the general partnership.

**Article 35: Appointment of manager**

The general partners may appoint one or more fellow general partners or a person who is not a general partner to manage the affairs of the general partnership.

The manager may perform any act within his powers, provided he does not act fraudulently. The act of the manager binds the general partnership.

A manager shall be removed by a vote of a majority of the general partners unless otherwise provided in the general partnership contract.

**Article 36: More than one manager**

When several persons are appointed as managers, each manager may act separately unless otherwise provided in the general partnership contract.

**Article 37: Partner's power to manage**

The general partners are deemed to have conferred the power to manage the affairs of the general partnership.

Any act performed by a partner in respect of the common activities of the general partnership binds the other general partners.

**Article 38: Decision making process of the partners**

Every general partner has the right to participate in general partnership decisions, and may not be prevented from exercising that right by the general partnership contract.

Unless otherwise provided in the general partnership contract, decisions are taken by the vote of a majority of the general partners, regardless of the value of their interest in the general partnership. However, decisions to amend the general partnership contract are taken by a unanimous vote.

**Article 39: Right to information**

Each partner has the right to obtain information about the affairs of the general partnership and to consult its books and records even if he is excluded from management.

In exercising this right, the partner shall not unreasonably impede the operations of the general partnership or prevent the other general partners from exercising the same right.

**C. Relation of General Partnership with Third Parties****Article 40: Partner as agent**

Each general partner is an agent of the general partnership in respect of third parties acting in good faith and each general partner binds the general partnership for every act performed in its name in the ordinary course of its business. Any agreement to the contrary is not effective.

**Article 41: Partnership bound by contracts of partner**

An obligation contracted by a general partner in his own name binds the general partnership when the obligation is within the scope of the business of the general partnership or when its subject matter is property used by the general partnership.

**Article 42: Partner's liability**

All general partners are jointly and severally liable for the obligations of the general partnership.

A third party shall seek enforcement of obligations against the general partnership and general partnership assets prior to seeking enforcement against the general partners.

**Article 43: New partner's liability**

A person admitted as a general partner into an existing general partnership shall be liable for all liabilities the general partnership incurred before his admission as if he had been a partner when such liabilities were incurred. However, all liabilities incurred prior to his admission as a general partner can be satisfied only out of the general partnership property and not out of his personal property unless he agrees otherwise in writing.

**Article 44: Knowledge of partnership**

Notice given to any general partner concerning general partnership affairs or the knowledge of any general partner shall be considered notice to or knowledge of the general partnership except in the case of a fraud committed on the general partnership with the participation of that general partner.

**Article 45: Misrepresentation**

A person who directly or indirectly causes another person to believe that he is a partner, although he is not, may be held liable as a general partner to third parties acting in good faith.

In case of fraud as mentioned above, the general partnership is not liable to third parties unless the general partnership gives reasons to believe that the person is a general partner and the general partnership fails to take measures to prevent third parties from being mistaken.

**Article 46: Silent partner**

A general partner who has not been declared is called a silent partner and is liable to third parties for the same obligations as declared general partners.

**Article 47: Distribution of security**

A general partnership may not make a distribution of securities to the public or issue negotiable instruments.

Any contract entered into and any issuance of securities or instruments made in contravention of this article are void.

The general partnership shall compensate a third party acting in good faith for damages resulting from the void contract, securities or instruments.



## **D. When a Person Ceases to be a General Partner**

### **Article 48: When a person ceases to be a partner**

A person ceases to be a general partner of a general partnership when the person:

- transfers his interest,
- dies,
- is placed under protective supervision bankrupt
- exercises his right to withdraw,
- is expelled from the general partnership,
- a judgment authorizes his withdrawal or orders the seizure of his interest.

### **Article 49: Effect on partnership**

Unless the general partnership contract provides otherwise, the fact that a person ceases to be a general partner does automatically cause the dissolution of the general partnership.

The general partnership may continue by unanimous consent of all of general partners and by complying with filing and registration requirements to reflect the changes in the general partnership.

Where there is a written contract of general partnership, the contract shall be amended in accordance with the changes.

### **Article 50: Right of a person who ceases to be a partner**

A person who ceases to be a general partner of the general partnership, otherwise than by the transfer or seizure of his interest, may obtain the value of his interest upon ceasing to be a general partner. The other general partners are bound to pay the person the amount of the value as soon as it is established, with interest from the day on which he ceases to be a general partner.

The value of the interest is determined as provided in the general partnership contract or an agreement among the general partners. Otherwise, the value is determined by an expert designated by the general partners or by the court.

### **Article 51: Right of withdrawal**

A general partner of a general partnership constituted for a term that is not fixed or whose contract of general partnership reserves the right of withdrawal may withdraw from the general partnership by giving the general partnership notice of his withdrawal, in good faith.

Unless the general partnership contract provides otherwise, a general partner of a general partnership constituted for a term that is fixed may withdraw only with the agreement of a majority of the other general partners.

## **Article 52: Expulsion of a partner**

The general partners may, by a majority vote, agree on the expulsion of a general partner who fails to perform his obligations or hinders the carrying on of the activities of the general partnership.

In the case of any objection, a general partner may, in these circumstances, apply to the court for authorization to withdraw from the general partnership. The court shall grant the demand unless the court considers it more appropriate to order the expulsion of the general partner at fault.

## **E. Dissolution and Liquidation of the General Partnership**

### **Article 53: Cause of dissolution**

A general partnership is dissolved by the:

- (a) causes of dissolution provided in the contract of general partnership
  - the termination of the general partnership's object,
  - the impossibility of accomplishing it,
  - the unanimous consent of all the general partners.
- (b) The court may dissolve a general partnership for a legitimate cause. Once the general partnership is dissolved, it shall be proceed with the liquidation of the general partnership.

### **Article 54: Continuation of partnership with a fixed term**

Any general partnership constituted for an agreed term may be continued by unanimous consent of all the general partners.

### **Article 55: One partner**

The uniting of all the interests in the hands of a single general partner does not cause dissolution of the general partnership, provided that at least one other person becomes a general partner within one hundred and twenty (120) days after the interests are united.

### **Article 56: Rights of partners upon dissolution**

The powers of the general partners to act on behalf of the general partnership cease upon the dissolution of the general partnership, except for acts that are a necessary consequence of business already begun but not complete. However, anything done in the ordinary course of business by a general partner who is not aware of the dissolution of the general partnership and acting in good faith binds the general partnership and the other general partners as if the general partnership were still in existence.

### **Article 57: Rights of third parties upon dissolution**

Dissolution of the general partnership does not affect the rights of third parties acting in good faith and who entered into a contract with a general partner or an agent acting on behalf of the general partnership.

**Article 58: Legal personality of partnership**

The legal personality of the general partnership continues to exist for the purpose of liquidating its business.

**Article 59: Notice of dissolution**

The general partners shall file a notice of the dissolution in the prescribed form with the Registrar and appoint a liquidator.

The general partners shall immediately publish the notice of dissolution for four (4) consecutive weeks in a Khmer language newspaper in the Kingdom of Cambodia published or distributed in the place where the general partnership has its registered office or in other publications as provided by regulations of the Ministry of Commerce. The notice published in newspaper shall be set in regulations adopted by the Minister of Commerce.

**Article 60: Powers of the liquidator**

Upon dissolution of the general partnership, the possession and the use of general partnership property is delivered to the liquidator.

The liquidator acts as an administrator of the property. The liquidator is entrusted with full administration powers.

The liquidator is entitled to require from the general partners any documents and any explanation concerning the rights and obligations of the general partnership.

**Article 61: Order of payment in liquidation**

The liquidator first shall pay the salary of employee, tax, and other priority debts , then reimburses the capital contributions.

The liquidator partitions the remaining assets among the general partners in proportion to their rights or, if not provided in the general partnership contract, in equal portions.

If the assets include property owned by third parties, the liquidator may return the property to the third party.

**Article 62: Books and records**

The liquidator shall keep the books and records of the general partnership for ten (10) years from the closing of the liquidation. The liquidator shall keep books and records for a longer period if they are required as evidence in a proceeding.

**Article 63: Closing of liquidation and legal personality**

The liquidation of a general partnership is closed by the filing of a notice of closure in a prescribed form with the Ministry of Commerce. The filing of this notice is ceased to exist the legal personality of the general partnership.

## **Part 2. Limited Partnerships**

### **Article 64: Nature of Limited Partnership**

A limited partnership is a contract between one or more general partners who are the sole persons authorized to administer and bind the partnership, and one or more limited partners, who are bound to contribute to the capital of the partnership.

### **Article 65: One person as both limited and general partner**

A person may at the same time be both a general partner and a limited partner in the same limited partnership.

A person who is at the same time both a general partner and a limited partner in a limited partnership has the rights and obligations of a general partner

### **Article 66: Form of contract**

The contract of limited partnership may be verbal or in writing. If the contract is in writing, all general partners and at least one limited partner shall sign it.

The term of the limited partnership contract may not be in excess of 99 years but may extend.

### **Article 67: Date of creation**

The limited partnership is formed on the date on which it is registered in accordance with the Law on Commercial Rules and Register.

If the limited partnership is not registered, it is deemed to be a general partnership. In this case, such general partnership does not have a legal personality.

### **Article 68: Name**

The name of a limited partnership shall include the name of one or more of the general partners, and the words "Limited Partnership" shall be placed at the end or below the name. A limited partnership shall use its name when carrying on business.

### **Article 69: Record of limited partners**

The general partners shall keep a record containing the name and domicile of each of the limited partners and any information concerning their contributions to the capital of the limited partnership.

The general partners shall keep the record at the principal place of business of the limited partnership.

The general partners shall responsible for complying with the registration, filing and publication requirements for the limited partnership.

**Article 70: Nature of partners' contribution**

A limited partner's contribution to capital may consist of a sum of money or property only. The limited partner may make additional contributions at any time.

A general partner's contribution to capital may be in cash, in kind, in past services actually rendered or future services.

**Article 71: Participation of limited partner in profits and losses**

A limited partner is entitled to receive his share of the profits. If the payment of the profits reduces the capital of the limited partnership resulting in a deficit, the limited partner who received the payment shall return the sum necessary to cover his share of the deficit.

**Article 72: Liability of limited partner**

The limited partner is liable only to the extent of the sum of money or value of the property he agreed to contribute.

**Article 73: Name of limited partner used in limited partnership's name**

A limited partner whose name appears in the name of the limited partnership is liable for the obligations of the limited partnership in the same manner as a general partner, unless his status as a limited partner is clearly indicated.

**Article 74: Powers, rights, obligations of general partner**

General partners have the rights and obligations of the partners of a general partnership. General partners shall account for their administration to the limited partners.

The general partners have the obligations to the limited partners' property of the limited partnership. The limited partnership contract may not waive this obligation.

**Article 75: Liability of general partner**

The general partners are jointly and severally liable for the debts of the partnership to third parties.

**Article 76: Limited partner's entitlement to wages**

A limited partner may receive wages from the limited partnership.

**Article 77: Limited partner's right to withdraw**

While the limited partnership exists, in any manner whatsoever, a limited partner may not withdraw any part of his contribution, unless the majority of all other partners consent and the property remaining in the limited partnership after the withdrawal is sufficient to discharge the debts of the limited partnership.

**Article 78: Transferability of limited partner's interest**

A limited partner may transfer his interest in the limited partnership without the unanimous consent of other partners.

With respect to third parties, the limited partner who transferred his interest remains liable for the obligations that may result from his contribution at the time he was still a limited partner of the partnership.

**Article 79: Management – limited partner**

A limited partner shall not participate in the management of the limited partnership's business.

A limited partner may, from time to time, examine the reports and progress of the limited partnership, and may give advisory opinions with regard to the management of the limited partnership.

A limited partner may not negotiate any business on behalf of the limited partnership, act as agent for the limited partnership, or allow his name to be used in any act of the limited partnership.

A limited partner who performs any of these acts is liable for the obligations of the limited partnership resulting from these acts.

A limited partner may be held responsible in the same manner as a general partner for all the obligations of the limited partnership if the number of these acts, or the importance of them with respect to the partnership business, indicate that the limited partner in fact acted as a general partner.

**Article 80: When general partners not able to act**

When the general partners can no longer act, the limited partners may perform any act of simple administration required for the management of the limited partnership.

If the general partners are not replaced within one hundred and twenty (120) days, the limited partnership is dissolved.

**Article 81: Law suit against the partnership**

A third party who is a creditor may claim the debts against the limited partnership and the general partners in the same manner as the general partnership.

Where the property of the limited partnership is insufficient, the general partners are jointly and severally liable for the debts of the limited partnership to third persons. A limited partner is liable for the debts up to the agreed amount of his contribution, notwithstanding any transfer of his interest.

**Article 82: Insufficiency of partnership's assets – third parties**

Where the property of the limited partnership is insufficient, the general partners are jointly and severally liable for the debts of the limited partnership to third persons. A limited partner is liable for the debts up to the agreed amount of his contribution, notwithstanding any transfer of his interest.

**Article 83: Insufficiency of partnership's assets – limited partners**

In the case of insolvency or bankruptcy of the limited partnership, a limited partner may not, in his status as a limited partner, claim as a creditor until the other creditors of the limited partnership are satisfied.

**Article 84: Application of provisions dealing with general partnership**

The rules governing general partnerships shall also apply to limited partnerships.

**Chapter 3 – Limited Company and Public Limited Company  
Part 1. General provisions****Article 85: Application**

This Law authorizes the formation of private limited companies and public limited companies to carry on business in the Kingdom of Cambodia.

A company shall not be formed under this Law to carry on the business of a bank, an insurance company or a finance company.

**Article 86: Nature of Private Limited Company**

A “Private Limited Company” is a form of a limited company that meets the following requirements.

- (a) The company may have 2 to 30 shareholders. However, one person may form a company called single member private limited company. The requirements of a single member private limited company are the same manner as a private limited company except the relationship of shareholder to one another.
- (b) The company may not offer its shares or other securities to the public generally, but may offer them to shareholders, family members and managers.
- (c) The company may have one or more restriction on the transfer of each class of its shares.
- (d) A company treated as a private limited company from the date of registration with the Commercial Registrar pursuant to the prescribed form provided by the Ministry of Commerce.

**Article 87: Nature of Public Limited Company**

A “Public Limited Company” is a form of a limited company that is authorized by this Law to issue securities to the public.

## **Article 88: Interpretation**

In this Chapter, the technical words shall have the following meaning:

- (1). “articles” means the original or restated articles of incorporation or articles of amendment,.
- (2). “**auditor**” means a chartered accountant who practices individually or within a chartered accountants firm.
- (3). “**debt obligation**” means a bond, debenture, note or other evidence of debt, or guarantee of a company, whether secured or unsecured.
- (4). “**Director of Companies**” means the officers appointed by the Minister of Commerce to administer this Law.
- (5). “**director**” means a member of the board of directors of a company.
- (6). “**incorporator**” means a natural person who signs articles of incorporation.
- (7). “**ordinary resolution**” means a resolution passed by a majority of the votes cast by the shareholders who voted on the resolution.
- (8). “**redeemable share**” means a share issued by a company

- that the company may purchase or redeem on the demand of the company,

- that the company is required by its articles to purchase or redeem at a specified time or on the demand of a shareholder.

- (9). “**series**” in relation to shares, means a division of a class of shares.
- (10). “**special resolution**” means a resolution passed by a majority of not less than two-third of the votes cast by the shareholders who voted on that resolution or signed by all the shareholders entitled to vote on that resolution.
- (11). “**security**” means
  - (a) a share of any class or series of shares of a company,
  - (b) a bond,
  - (c) includes a certificate evidencing a security.

## **Article 89: Affiliate - interpretation**

A company is affiliated with another company if one of them is the subsidiary of the other or both are subsidiaries of the same company or each of them is controlled by the same person.

If two companies are affiliated with the same company at the same time, they are deemed to be affiliated with each other.

## **Article 90: Liability for registration, filing and publication**

Each incorporator or director, as the case may be, is responsible for complying with the registration, filing and publication requirements.



## **Part 2.**

### **A. Formation of a Limited Company**

#### **Article 91: Creation of Limited Company**

One or more competent natural persons or legal persons may create a limited company by filing articles of incorporation with the Director of Companies.

#### **Article 92: Name of company**

The name of a Private Limited Company shall include, at the end, the words, "Private Limited Company", or an appropriate abbreviation.

The name of a Public Limited Company shall include, at its end, the words "Public Limited Company" or an appropriate abbreviation.

The Director of Companies shall examine the name proposed by the company and may reject any name that is confusingly similar to another previously registered name or contrary to public order, vulgar, scandalous or otherwise inappropriate. A decision of the Director of Companies concerning the company's name is the binding and final decision.

#### **Article 93: Articles of Incorporation, required contents**

The articles of incorporation shall state the following information:

- (a) The name of the company.
- (b) The company's Registered Office in the Kingdom of Cambodia.
- (c) The objectives of the company and any restrictions on the business that the company may carry on. Company objectives may include one or more types of businesses not contrary to any provision of law.
- (d) The authorized capital to be stated in national currency.
- (e) The classes and any maximum number of shares and the par value per shares that the company is authorized to issue.
- (f) If the company is authorized to issue more than one class of shares, the articles of incorporation shall state the maximum number of shares, and the par value per share and shall describe the rights, privileges, restrictions and conditions attached to each class.
- (g) If a class of shares may be issued in series, the articles shall authorize the directors to fix the number of shares in each series, to determine the designation of each series, and to determine the rights, privileges, restrictions and conditions attached to each series.
- (h) If the issue, transfer or ownership of shares of the company is to be restricted, a statement to that effect and a statement as to the nature of such restrictions.
- (i) The name and complete address of each shareholder.
- (j) The number of directors, or the maximum and minimum number of directors of the company.

#### **Article 94: Additional provisions in articles**

The articles may also include any provision that is necessary.

**Article 95: Signature of articles**

The articles may be executed either through a private agreement or through a notary. The articles shall be signed or initialed by all the shareholders.

**Article 96: Delivery of articles**

An incorporator shall submit the articles to the Director of Companies for filing attached with other documents for registration.

**Article 97: Certificate of incorporation**

After accepting the articles of incorporation for filing, and after receiving the filing fee, the Director of Companies shall issue a certificate of incorporation.

**Article 98: Effect of certificate**

A company comes into existence and acquires legal personality on the date shown in the certificate of incorporation.

**B. Capacity and Rights of the Company**

**Article 99: Capacity of a company**

Subject to this law, a company has the capacity, rights and privileges of a natural person. A company may carry on business throughout the Kingdom of Cambodia.

**Article 100: Extra-territorial capacity**

A company has the capacity to carry on its business, conduct its affairs and exercise its rights in any jurisdiction outside of the Kingdom of Cambodia to the extent that the laws of such jurisdiction permit.

**Article 101: Nationality**

A company shall be deemed to be of Khmer nationality only if:

- (a) The company has a place of business and a registered office located in the Kingdom of Cambodia;
- (b) More than 51% of the voting shares of the company are held by natural or legal persons of Khmer nationality.

**Article 102: Bylaws**

A company may adopt bylaws that regulate the business or affairs of the company.

It is not necessary for a bylaw to be adopted in order to confer any particular rights on the company or its directors.

**Article 103: Restricted business or powers**

A company shall not carry on any business or exercise any rights that is restricted by its articles, nor shall the company exercise any of its rights in a manner contrary to its articles.

**Article 104: Rights preserved**

The fact that a company acts in violation of its articles or bylaws does not, by itself, invalidate such acts. This rule applies to all acts, including the transfer of property to the company or by the company.

**Article 105: No constructive notice**

The fact that the Director of Companies files company documents, or the fact that a document is available for inspection and copying at the company office does not, by itself, affect any person or give notice or knowledge of the contents of the documents to any person.

**Article 106: Protections for third persons**

A company, or a person who guarantees an obligation of the company, may not allege the following points against a third person who deals with the company, or a third person who acquires rights from the company. However, these points can be alleged if the third person knew or should have known these points because of his position or relationship with the company.

- (a) the articles and by-laws have not been complied with,
- (b) the persons named in the most recent notice of directors sent to the Director of Companies are not the directors of the company,
- (c) the place named in the most recent notice of registered office sent to the Director of companies is not the registered office of the company,
- (d) a person that the company holds out as a director, an officer or an agent of the company has not been appointed or has no authority to exercise the powers and perform the duties that are customary in the business of the company or usual for such director, officer or agent,
- (e) a document issued by any director, officer or agent of a company is not valid or not genuine,
- (f) loans and guarantees, or a sale, lease or exchange of property were not authorized.

**C. Registered Office, Books and Records****Article 107: Registered office**

At all times, a company shall have a registered office in the Kingdom of Cambodia, located in the place specified in its articles.

**Article 108: Notice of registered office**

A company shall send the Director of Companies, on the prescribed form, notice of the location of the registered office, together with the relevant portions of the articles designating or changing the location.

A company shall send to the Director of Companies, on the prescribed form, notice of a change of address of its registered office. The notice shall be sent within fifteen (15) days of the change.

#### **Article 109: Corporate records**

A company shall prepare and maintain, at its registered office, records containing

- (a) the articles and by-laws, and all amendments thereto;
- (b) minutes of meetings and resolutions of shareholders;
- (c) copies of all notices required to be sent or filed in accordance with this law;
- (d) a securities register.

#### **Article 110: Access to corporate records**

Shareholders and creditors of a company, their agents and legal representatives and the Director of Companies may examine the corporate records described above during the usual business hours of the company and may take extracts, free of charge.

If the company is a public limited company, any other person may take extracts of the corporate records in payment of a reasonable fee.

#### **Article 111: Use of shareholder lists**

Any list of shareholders shall not be used by any person except in connection with

- (a) an effort to influence the voting of shareholders of the company;
- (b) an offer to acquire shares of the company;
- (c) any other matter relating to the affairs of the company.

#### **Article 112: Directors records**

A company shall prepare and maintain adequate records and records containing minutes of meetings and resolutions of the directors and any committee of directors.

The Directors records shall be kept at the registered office of the company or at such other place as the directors think fit and shall at all reasonable times be open to inspection by the directors.

#### **Article 113: Accounting records**

A company shall prepare and maintain adequate accounting records for a period of ten (10) years after the end of the financial year to which the records relate.

If accounting records are kept at a place outside the Kingdom of Cambodia, copies of these accounting records shall also be kept at the registered office.

**Article 114: Company's duty to preserve records**

A company and its agents shall take reasonable precautions to ensure that company books and records are maintained in an accurate and properly preserved condition.

**Article 115: Corporate seal**

An instrument or agreement executed on behalf of a company by a director, an officer or an agent of the company is not invalid merely because a corporate seal is not affixed thereto.

**D. Directors and Officers****Article 116: Initial directors**

At the time of filing the documents and articles of incorporation, the incorporators shall send to the Director of Companies a notice of directors on a form prescribed by the Ministry of Commerce.

After issuance of the certificate of incorporation, an incorporator or a director may call the meeting of directors by giving not less than five (5) days notice by mail to each director, stating the time and place of the meeting.

The initial directors shall hold office from the date of incorporation until the first general meeting of the shareholders.

**Article 117: Shareholders' Organizational Meeting**

The initial directors shall organize the first shareholder's general meeting within one (1) year after the company is formed. Notice of the meeting shall be given in writing at least twenty (20) days in advance to those persons entitled to attend the meeting. The notice shall state the date, place, and agenda of the meeting.

**Article 118: Number of Directors**

A private limited company shall have one or more directors.

A public limited company shall have at least three (3) directors.

Shareholders shall elect directors by ordinary resolution of shareholders who have the rights to vote.

**Article 119: Powers of Directors**

The directors shall manage the business and affairs of a company. The articles of incorporation shall provide for the rights of the directors namely:

- (1). Propose to the shareholders an agreement of merger or consolidation between the company and any other person;
- (2). Appoint and remove all officers and determine the specific rights for such officers; Set the salaries and other compensation of such officers;

- (3). Fix the salary or other compensation for directors and submit them to shareholders for approval;
- (4). Issue notes, bonds, debentures and other evidences of debt of the company and fix their absolute, relative and contingent characteristics;
- (5). Propose to shareholders the amendments or annulments to the articles of incorporation;
- (6). Propose to the shareholders an agreement of merger or consolidation between the company and any other person
- (7). Propose to the shareholders the sale of all or major part of the company's assets;
- (8). Propose to the shareholders a dissolution or liquidation of the company;
- (9). Declare dividends in accordance with accounting principles and the terms of payment of each class of shares entitled to receive dividends;
- (10). Issue shares in the company to the extent authorized in the articles of incorporation and bylaws;
- (11). Borrow money;
- (12). Issue, reissue or sell security of the company;
- (13). Give a guarantee on behalf of the company;
- (14). Mortgage, hypothecate, pledge or otherwise create a security interest in all or any property of the company to secure any obligation of the company;
- (15). Close account books of each financial year and propose the annual profits for submission to the shareholders and shareholders' general meeting..

#### **Article 120: Qualifications of Directors**

Any legally competent natural person over eighteen (18) years old may serve as a director or officer of a company. A director is not required to be a shareholder or to meet any other qualification unless the articles or bylaws impose specific qualifications on them.

#### **Article 121: Term of Office for Director**

If the articles do not provide a term, each director shall be elected for a term of two (2) years and may be re-elected.

#### **Article 122: Staggered terms for directors**

Terms of directors may be staggered so that all their terms do not end in the same year.

#### **Article 123: Classes of directors**

The articles may also confer on the holders of each class of shares the right to elect one or more directors who shall serve the terms and shall manage other affairs provided by the articles. The terms of office and voting powers of directors of any such class may be greater or less than those of any other class of directors.

#### **Article 124: Removal of director**

A director may be removed with or without cause by a majority of the shareholders entitled to vote for the director.

**Article 125: Resignation of director**

A director may resign at any time by giving written notice to the company. The resignation shall take effect immediately or at the time stated in the notice.

A director who is the last director remaining in office, and who resigns before another director has been appointed shall be liable for damages caused to the company by his resignation.

**Article 126: Continuation in office**

A director may continue to serve after his term expires until a replacement has been elected.

**Article 127: Chairman of the Board**

The board of directors shall elect a chairman from among its members. The chairman may be removed from the office of chairman, but not from his position as a director, by a majority vote of the directors.

**Article 128: Calling meetings**

The chairman has the right to call directors' meetings. One-third of the total number of serving directors may call a director's meeting.

Unless the articles or bylaws provide otherwise, the board meeting shall be conducted within the Kingdom of Cambodia.

The board of directors shall be held at least once every three (3) months. The adoption of the Board Directors Resolution shall be decided base on the majority vote of the members or representatives that were presented in the meeting

**Article 129: Notice of meetings**

The board of directors may meet at any place as stated in the notice. The notice shall state the date and detail agenda the meeting.

A director may waive a notice of a meeting of directors. However, attendance of a director at a meeting of directors is a waiver of notice of the meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

**Article 130: Board consultations**

Unless otherwise provided in the articles, the directors may act by written communication among themselves.

Each director shall receive the contents of the resolution that has been proposed for review and adoption, supporting background information, and a ballot for voting "yes" or "no" on the matter.

If all directors vote to approve a matter, it is deemed approved by the board.

All written responses shall become part of the records of the board. The secretary of the company shall prepare a written report of the written communications and shall distribute this report to the directors.

#### **Article 131: Committees**

The board of directors may, as it deemed necessary, establish committees to facilitate its affairs. Committees of the board of directors may be established by a majority of the board of directors in a written resolution. Each committee shall consist of one or more directors to be appointed by a majority of the board of directors. Committees shall conduct their meetings in the same manner as the board of directors. Each committee shall have the rights granted to it by the written document that creates it. A committee, however, may not be delegated any authority to take those actions as the following:

- (a) To propose to shareholders amendments to the articles or bylaws;
- (b) To propose to the shareholders an agreement of merger or consolidation between the company and any other person;
- (c) To propose to the shareholders the sale of all or major part of the company's assets;
- (d) To propose to the shareholders a dissolution or liquidation of the company;
- (e) To declare dividends; and
- (f) To issue shares in the company.

#### **Article 132: Conduct of meetings**

A majority of the total number of directors presented in the meeting shall constitute a quorum of the board of directors, or of the board committee but the articles may require a greater number.

A director shall have one vote. A director may be a proxy for another director in the meeting of the board of directors, provided that he shall have a written authorization signed by the director for whom he is acting.

The secretary shall prepare and keep minutes of all meetings of the board and shall send copies of them to all directors.

#### **Article 133: indemnification**

A company may indemnify a present or former director, officer or other employee of a company in the performance of his duties where he has acted both reasonably and in good faith.

Indemnity shall be extended where the director, officer or other employee relied in good faith on the accuracy of the books or records of the company, or on other information, opinions, reports or statements presented to him by any officer of the company or any other person.

Indemnity shall cover the reasonable expenses or damages of any proceeding against the director, officer or employee arising out of his services to the company.



**Article 134: Disclosure by director or officer**

A director or officer of a company shall disclose the nature and extent of his interest in writing to the company or request to have a statement entered in the minutes of meetings of directors if he

- (a) is a party to a contract or proposed contract with the company, or
- (b) has a material interest in any person who is a party to a contract or proposed contract with the company,

**Article 135: Time of disclosure for director**

In the case of a director, disclosure shall be made

- (a) at the meeting at which a proposed contract is first considered;
- (b) if the director was not then interested in a proposed contract, at the first meeting after he becomes so interested;
- (c) if the director becomes interested after a contract is made, at the first meeting after he becomes so interested;
- (d) if a person who is interested in a contract later becomes a director, at the first meeting after he becomes a director.

**Article 136: Time of disclosure for officer**

In the case of an officer, the disclosure shall be made

- (a) as soon as he becomes aware that the contract or proposed contract is to be considered or has been considered at a meeting of the board of directors;
- (b) if the officer becomes interested before a contract is made, immediately after he becomes so interested; or
- (c) if a person who is interested in a contract later becomes an officer, forthwith after he becomes an officer.

**Article 137: Voting after disclosure**

A director who has a conflict of interest shall not vote on any resolution to approve the contract unless the contract is

- (a) an arrangement by way of security for money lent to or obligations undertaken by him for the benefit of the company or an affiliate;
- (b) one relating primarily to his remuneration as a director, officer, employee or agent of the company or an affiliate;
- (c) one for indemnity or insurance;
- (d) one with an affiliate.

**Article 138: Officers**

Subject to the articles or the bylaws,

- (a) the board of directors may designate the offices of the company, appoint officers,

specify their duties and delegate to them the powers to manage the business and affairs of the company;

- (b) a director may be appointed to any office of the company;
- (c) one or more offices of the company may be held by the same person.

#### **Article 139: Pre incorporation contracts**

A person who enters into a written contract in the name of or on behalf of a company before it comes into existence is personally bound by the contract and is entitled to the benefits thereof.

A company may, within a reasonable time after a contract has been made, adopt a written contract made before it came into existence and before it has adopted by the company. Such adoption shall be based on any action or conduct signifying its intention to be bound thereby.

The company is bound by the contract and is entitled to the benefits thereof as if the company had been in existence at the date of the contract and had been a party thereto.

A person who claimed to act in the name of or on behalf of the company ceases to be bound by or entitled to the benefits of the contract, unless otherwise ordered by court.

#### **Article 140: Directors' liability – consideration for share**

The Directors who vote for or consent to a resolution authorizing the issuance of a share for a consideration other than money are jointly and severally liable to the company for the amount by which the consideration received is less than the fair equivalent of the money that the company would have received if the share had been issued for money on the date of the resolution.

A director is not liable if he proves that he did not know and could not reasonably have known that the share was issued for a consideration less than the fair equivalent of the money that the company would have received if the share had been issued for money.

An action to enforce a liability imposed by this Law may not be commenced after two years from the date of the resolution authorizing the action complained of.

#### **Article 141: Others liability of directors**

The Directors who vote for or consent to a resolution authorizing a purchase, redemption or other acquisition of shares, a reduction of stated capital, or a payment of a dividend contrary to the requirements of this chapter are jointly and severally liable to restore to the company any amounts so distributed or paid.

An action to enforce a liability imposed by this article may not be commenced after two (2) years from the date of the resolution authorizing the action complained of.

#### **Article 142: Director's dissent**

A director who is present at a general meeting of the board of directors is deemed to have consented to any resolution passed or action taken at that meeting unless

- (1) he requests that his dissent be entered in the minutes of the meeting;
- (2) he sends his written dissent to the secretary of the meeting before the meeting is adjourned.

A director who was not present at a meeting at which a resolution was passed or action taken is deemed to have given consent unless within fifteen (15) days, after he becomes aware of the resolution he

- (1). causes his dissent to be placed with the minutes of the meeting;
- (2). sends his dissent by registered mail or delivers it to the registered office of the company.

## **E. Shares and Dividends**

### **Article 143: Shares**

Each share shall be in registered form. Each share has a par value and the company shall not issue any share at a price, which is less than the par value. The rights, privileges, restrictions and conditions attaching to the shares of each class shall be set out in the articles.

### **Article 144: Number, value and rights attached to shares**

If the articles fail to provide the number and price attached to the shares, the company shall issue a minimum of one thousand (1,000) shares with a par value of not less than four thousand (4,000) Riels per share.

If the articles fail to specify the class of share, the company has only one class of shares and the rights of the holders of these shares are equal in all respects and include the rights

- (1) to vote at any meeting of the shareholders of the company;
- (2) to receive any dividend declared by the company;
- (3) to receive the remaining property of the company on dissolution.

### **Article 145: Rights to classes of shares**

The articles may provide for more than one class of shares and, if they so provide, the rights of each class of shares may be absolute or relative.. The rights, privileges, restrictions and conditions attaching to the shares of each class shall be set out in the articles. The rights set out in Article 144 of this law, shall be attached, individually or in their entirety, to at least one class of shares. The rights may include:

- (a) Convertibility or exchangeability into other classes of shares or other securities of the limited company or another company, whether at the option of the limited company, at the option of the shareholders, or upon the occurrence of a specified event;
- (b) Priority of entitlement to net assets upon liquidation or dissolution of the limited company;
- (c) Redemption or repurchase at the option of the limited company or at the option of the holders of the share;
- (d) Restrictions on transferability.

**Article 146: Issue of shares – consideration for shares**

Subject to the articles, the by-laws and any pre-emptive right of shareholders, shares and securities may be issued at the times and to the persons as the directors may determine.

The directors shall determine the price of the shares and securities to be issued.

A share shall not be issued until the payment for the share is fully paid in money, in kind, or past services.

Payment in kind, may include trademarks, copyrights, patents, and the right to use any intangible property or trademark license.

The directors determine the value of the payment in kind or past services and their decision shall be final and conclusive, if there is no actual fraud involved.

The shares in service shall not authorize for the public limited company.

**Article 147: Liability of shareholder**

The shareholder's liability to the company is limited to the price of the shareholder's subscription.

**Article 148: Shares in series**

The articles may authorize the issue of any class of shares in one or more series and may authorize the directors to fix the number of shares in and to determine the designation, rights, privileges, restrictions and conditions attaching to the shares of each series, subject to the limitations set out in the articles. Except as otherwise provided, the rights, privileges, restrictions or conditions attached to the same class and series shall be identical.

**Article 149: Stated capital account**

A company shall maintain a separate stated capital account for each class and series of shares it issues.

A company shall add to the appropriate stated capital account the full amount of any payment in money, in kind or past services it receives for any shares it issues.

**Article 150: Constraints on addition or reduction to a stated capital account**

Where a company proposes to add any amount to a stated capital account it maintains in respect of a class or series of shares, if the amount to be added was not received by the company; the addition to the stated capital account must be approved by special resolution of the board of directors.

A company shall not reduce its stated capital account or any capital account. A company may reduce its capital account for any purpose by special resolution. The special resolution shall specify the capital account that will be reduced.

A company shall not reduce its capital account if there are reasonable grounds for believing that

- (1). the company is, or after the payment would be, unable to pay its liabilities as they become due;
- (2). the realizable value of the company's assets would be less than the aggregate of its liabilities.

This rule does not apply if the company reduces its capital account by an amount that is not represented by realizable assets.

A creditor of the company may apply to a court for an order directing the repayment of money or property received following a reduction of the capital account made contrary to this article.

An action to enforce a liability imposed by this article may not be commenced after two (2) years from the date of the resolution authorizing the action complained of.

#### **Article 151: Pre-emptive right**

If the articles provide for a right of pre-emption attaching to a class of shares, no further shares of that class shall be issued unless they have first been offered to the shareholders having the right of preemption on that class.

Shareholders have a pre-emptive right to acquire the offered shares in proportion to their holdings of the shares of that class, at such price and on such terms as those shares are to be offered to third parties.

#### **Article 152: Options and rights**

A company may issue certificates of conversion privileges, options, or rights to acquire securities of the company. In this case, the certificates or securities shall set out the conditions applicable to the conversion privileges, options or rights.

Conversion privileges, options and rights to acquire securities of a company may be made transferable or non-transferable, and options and rights to acquire may be made separable or inseparable from any securities to which they are attached.

#### **Article 153: Share certificate**

Each shareholder is entitled to receive a share certificate. There shall be stated on the face of each share certificate issued by a company: the name of the company, the name of the person to whom it was issued and the number and class of shares and the designation of any series that the certificate represents.

#### **Article 154: Transfer of share**

Subject to restrictions imposed by this law and the articles, shares are transferable. The company shall transfer the shares and make the appropriate entries in its books and records upon the request of both the transferor and the transferee.

**Article 155: Acquisition of company's own shares**

Subject to its articles, a company may purchase or redeem shares issued by it.

The company shall always have outstanding shares of at least one class of shares with full voting powers and which are not subject to mandatory redemption or repurchase.

If shares are redeemed, the shareholder has a duty to surrender them to the company, in return for payment of the redemption price. If he does not do so, the company may deposit the value of the redeemed shares to a separate account in a known bank and notify the shareholder in writing. The company shall cancel the redeemed shares on its books and records as soon as such funds are set aside. However, a company shall not make any payment to purchase or redeem shares issued by it if there are reasonable grounds for believing that

- (1). the company is, after the purchase would be, unable to pay its liabilities as they become due
- (2). the realizable value of the company's assets after purchasing would be less than the aggregate of its liabilities.

Shares purchased, redeemed or otherwise acquired by the company shall be cancelled or, if the articles limit the number of authorized shares, may be restored to the status of authorized but unissued shares of the class.

**Article 156: Reduction of stated capital on redemption or purchase**

When a company purchases, redeems or acquires its shares, the company shall make corresponding adjustments to the capital account maintained for the class or series of shares purchased, redeemed or acquired.

**Article 157: Dividend declaration**

Subject to any restrictions contained in its articles, the directors may declare dividends out of the company's surplus or out of its net profits.

The directors may set apart special reserves for the company to use in carrying on its business, by using any funds of the company available for distribution of dividends.

**Article 158: Restriction to declaration of dividends**

A company shall not declare or pay a dividend if there are reasonable grounds for believing that

- (a) the company is, or after the payment would be, unable to pay its liabilities as they become due; or
- (b) the realizable value of the company's assets would be less than the aggregate of its liabilities and stated capital of all classes.

**Article 159: Form of dividend**

A company may pay a dividend by issuing shares of the company. Subject to the restrictions in this Part, a company may pay a dividend in money or property.

## **Article 160: Adjustment of stated capital account**

If shares of a company are issued in payment of a dividend, the declared amount of the dividend stated as an amount of money shall be added to the capital account or maintained or to be maintained for the shares of the class or series issued in payment of the dividend.

## **F. Security Certificates, Registers and Transfers**

### **Article 161: Definitions**

In this Part, the technical words shall have the meanings as follows:

- (1). "bearer" means the person in possession of a security payable to bearer or endorsed in blank;
- (2). "bona fide purchaser" means a purchaser for value in good faith and without notice of adverse claim who takes delivery of a security in bearer form or order form or of a security in registered form issued to him or endorsed to him or endorsed in blank;
- (3). "**broker**" means a person who is engaged for all or part of his time in the business of buying and selling securities and who, in the transaction concerned, acts for, or buys a security from, or sells a security to a customer;
- (4). "**delivery**" means voluntary transfer of possession;
- (5). "**genuine**" means free of forgery or counterfeiting;
- (6). "**holder**" means a person in possession of a security issued or endorsed to him or to bearer or in blank;
- (7). "**over-issue**" means the issue of securities in excess of any maximum number of securities that the issuer is authorized to issue by its articles or by a specific contract;
- (8). "**purchaser**" means a person who takes an interest in a security by sale, mortgage, hypothec, pledge, issue, reissue, gift or any other voluntary transaction;
- (9). "**security**" or "**security certificate**" means an instrument issued by a company that is
  - (a) in bearer form, registered form or order form;
  - (b) of a type commonly dealt in on securities exchanges or markets or commonly recognized in any area in which it is issued or dealt in as a medium for investment;
  - (c) one of a class or series or by its terms divisible into a class or series of instruments, and
  - (d) evidence of a share, participation or other interest in or obligation of a company;
- (10). "**transfer**" includes transmission by operation of law;
- (11). "**unauthorized**" in relation to a signature or an endorsement, means one made without actual, implied or apparent authority and includes a forgery.

### **Article 162: Securities are negotiable instruments**

Securities are negotiable instruments.

### **Article 163: Distribution document**

A company that files or distributes in any business plan, statement of material facts,

registration statement, securities exchange take-over bid circular or similar document relating to the distribution to the public of the securities of the company shall immediately send to the Director of Companies a copy of any such document.

**Article 164: Securities in registered form A**

security is in registered form if

- (a) it specifies a person entitled to the security and specifies that the transfer is capable of being recorded in a securities register; or
- (b) it bears a statement that it is in registered form.

**Article 165: Debt obligation in order form**

A debt obligation is in order form when it states that the debt obligation is payable to the order of, or that the debt obligation is assigned to a person who is reasonably identifiable.

**Article 166: Securities in bearer form**

A security is in bearer form if it is payable to any person who may present the security for payment. The securities in bearer form do not indicate the name of the holder.

**Article 167: Rights of holder**

Every security holder is entitled at his option to a security certificate that complies with this law or a non-transferable written acknowledgment of his right to obtain such a security certificate from a company.

A company is not required to issue more than one security certificate in respect of securities held jointly by several persons. Delivery of one security certificate to one person is sufficient.

**Article 168: Signatures on the securities certificate**

A security certificate shall be signed manually by at least one director and any additional signatures required on a security certificate may be printed.

**Article 169: Contents of share certificate**

There shall be stated on the face of each share certificate issued by a company

- (1). the name of the company;
- (2). the words "Incorporated under the Law of Commercial Enterprises of the Kingdom of Cambodia";
- (3). the name of the person to whom it was issued;
- (4). the number and class of shares and series of that share certificate;
- (5). any restriction on the transfer of the security.

On a share certificate issued by a company that is authorized to issue more than one class or series of shares, there shall be stated legibly

- (a) the rights, privileges, restrictions and conditions attached to the shares of each



- class and series that exists when the share certificate is issued;
- (b) that the class or series of shares that it represents has rights, privileges, restrictions or conditions attached thereto. The company will provide a shareholder, on demand and without charge, with a full copy of the text of the rights, privileges, restrictions and conditions attached to each class and series.

#### **Article 170: Securities Register**

A company shall maintain a securities register in which it records the securities it issues stating with respect to each class or series of securities, namely:

- (a) the names, alphabetically arranged, and the latest known address of each person who is or has been a security holder;
- (b) the number of securities held by each security holder; and
- (c) the date and particulars of the issue and transfer of each security.

#### **Article 171: Dealings with registered holder**

A company may treat the registered owner of a security as the person exclusively entitled to vote, to receive notices, to receive any interest, dividend or other payments in respect of the security, and to exercise all the rights of an owner of the security.

In the case where there are restrictions on the transfer of a security, and the security is transferred or transmitted to a person who is not the registered owner, the person shall provide proof of his authority to exercise rights or privileges in respect of the security. The company shall treat the person as entitled to exercise those rights or privileges.

#### **Article 172: Minors**

If an unemancipated minor exercises any rights of ownership in the securities of a company, neither the minor nor his representative may subsequently repudiate the actions.

#### **Article 173: Transmission of securities**

When a security is transferred or transmitted to a person who is not the registered holder, the person is entitled to become or to designate the registered holder if he files with the company the security certificate that was owned by the security holder.

The filing documents shall contain:

- (a) the authentic notary document, or the original or certified copy of the court order or letters of administration; or
- (b) an affidavit evidencing the transfer of the security on behalf of the registered holder:
  - by a legal representative of a minor, incompetent person, or missing person;
  - a liquidator; or
  - trustee in bankruptcy.

**Article 174: Burden of proof**

In an action on a security, unless specifically denied in the pleadings, each signature on the security or in a necessary endorsement is admitted;

a signature on the security is presumed to be genuine and authorized, but if the effectiveness of the signature is put in issue, the burden of establishing that it is genuine and authorized is on the party claiming that the signature is not genuine;

if a signature is admitted or established, production of the instrument entitles a holder to recover on it unless the defendant establishes a defense or a defect going to the validity of the security; and

if the defendant establishes that a defense or defect exists, the plaintiff has the burden of establishing that the defense or defect is ineffective against him or some person under whom he claims.

**Article 175: Securities fungible**

Unless otherwise agreed, and subject to any applicable law or related regulation a person required to deliver securities may deliver any security of the specified issue in bearer form or registered in the name of the transferee or endorsed to him or in blank.

**Article 176: Notice of defect**

The terms of a security stated on the security and terms incorporated by reference to another instrument to the extent that the incorporated terms do not conflict with the stated terms. If there is any inconsistency between such two terms then the first shall prevail.

A company shall, whether the fact that a security is not genuine, admit the ownership of the security in the hands of a bona fide purchaser.

A security is valid in the hands of a bona fide purchaser who does not have notice of any defect going to the validity of the security.

**Article 177: Unauthorized signature**

An unauthorized signature on a security before or in the course of its issue is ineffective. Except that the signature is effective in favor of a purchaser and without notice of the lack of authority, if the signing has been done by any person entrusted by the issuer to sign the security, or similar securities.

**Article 178: Completion or alteration**

Where a security contains the signatures necessary for its issue or transfer but is incomplete in any other respect,

- (a) any person may complete it by filling in the blanks in accordance with his authority;
- (b) notwithstanding that the blanks are incorrectly filled in, the security as completed is enforceable by a purchaser who took it for value and without notice of the incorrectness;

- (c) a completed security that has been improperly altered, even if fraudulently altered, remains enforceable but only according to its original terms.

#### **Article 179: Warranties of agents**

A registrar, or transfer agent shall not liable for the forgery of security if:

- (a) his acts in connection with the issue of the security are within his authority;
- (b) he has reasonable grounds for believing that the security is in the form and within the amount the issuer is authorized to issue.

#### **Article 180: Title of purchaser**

On delivery of a security the purchaser acquires the rights in the security that his transferor had or had authority to convey, except that a purchaser who has been a party to any fraud or illegality affecting the security does not improve his position by taking title to the security from a later bona fide purchaser.

#### **Article 181: Warranties to purchaser**

A person by transferring a security to a bona fide purchaser warrants only that

- (1). the transfer is effective and rightful;
- (2). the security is genuine and has not been materially altered; and
- (3). he knows of nothing that might impair the validity of the security.

A broker gives to his customer, to the issuer and to a purchaser, as the case may be, the warranties provided in this article and has the rights and privileges of a purchaser under this article. Those warranties of and in favor of the broker acting as an agent are in addition to warranties given by his customer and warranties given in favor of his customer.

#### **Article 182: Right to compel endorsement**

When a security in registered form is delivered to a purchaser without an endorsement, the purchaser may become a bona fide purchaser only at the time the endorsement is supplied.

However, the transfer is complete on delivery the purchaser has an enforceable right against the transferor to have any necessary endorsement supplied.

#### **Article 183: Endorsement**

An endorsement of a security in registered form is made when an appropriate person signs, either on the security or on a separate document, an assignment or transfer of the security or signs a power to assign or transfer the security. The endorsements of security shall have the following characteristics:

- An endorsement may be special or in blank.
- An endorsement in blank includes an endorsement to bearer.

- A special endorsement specifies the person to whom the security is to be transferred, or who has power to transfer it.

A holder may convert an endorsement in blank into a special endorsement.

In this Part, appropriate person to endorse is:

- (1). the person specified by the security or by special endorsement to be entitled to the security;
- (2). the legal representative, if the person described in paragraph (1) is an individual and is without capacity to act by any reason;
- (3). a person having power to sign under an applicable law or a power of attorney; or
- (4). an authorized agent, to the extent that a person described in paragraphs (1) to (3) may act through an agent.

#### **Article 184: Immunity of endorser**

Unless otherwise agreed, the endorser by his endorsement assumes no obligation that the security will be honored by the issuer.

An endorsement purporting to be only of part of a security representing units intended by the issuer to be separately transferable is effective to the extent of the endorsement.

#### **Article 185: Effect of endorsement without delivery**

An endorsement of a security whether special or in blank does not constitute a transfer until delivery of the security on which the endorsement appears or, if the endorsement is on a separate document, until delivery of both the security and the separate document.

#### **Article 186: Endorsement in bearer form**

An endorsement of a security in bearer form does not otherwise affect any right to registration that the holder has.

#### **Article 187: Effect of unauthorized endorsement**

The owner of a security may assert the ineffectiveness of an endorsement against the issuer or any purchaser who has in good faith received a new, reissued or re-registered security on registration of transfer.

#### **Article 188: Liability of issuer**

An issuer who registers the transfer of a security on an unauthorized endorsement is liable for improper registration.

#### **Article 189: Warranties of guarantor of signature**

A person who guarantees a signature of an endorser of a security warrants that at the time of signing

- (1).the signature was genuine;
- (2).the signer was an appropriate person to endorse; and
- (3).the signer had legal capacity to sign.

However, a person who guarantees a signature of an endorser does not otherwise warrant the rightfulness of the particular transfer.

An issuer may not require a guarantee of endorsement as a condition to registration of transfer.

#### **Article 190: When delivery occurs**

Delivery to a purchaser occurs when

- (a) the purchaser or a person designated by him acquires possession of a security;
- (b) the broker of the purchaser acquires possession of a security specially endorsed to or issued in the name of the purchaser;
- (c) the broker of the purchaser sends him confirmation of the purchase and the broker in his records identifies a specific security as belonging to the purchaser; or
- (d) with respect to an identified security to be delivered while still in the possession of a third person, that person acknowledges that he holds it for the purchaser.

#### **Article 191: Delivery to broker**

Unless otherwise agreed, if a sale of a security is made on an exchange or otherwise through brokers

- (1).the selling customer fulfils his duty to deliver when he delivers the security to the selling broker or to a person designated by the selling broker, or causes an acknowledgment to be made to the selling broker that it is held for him; and
- (2).the selling broker, including a correspondent broker, acting for a selling customer fulfils his duty to deliver by delivering the security or a like security to the buying broker or to a person designated by the buying broker or by effecting clearance of the sale in accordance with the rules of the exchange on which the transaction took place.

Unless otherwise agreed, a transferor's duty to deliver a security to a purchaser under a contract of purchase is not fulfilled until he delivers the security in negotiable form to the purchaser or to a person designated by the purchaser, or causes an acknowledgment to be made to the purchaser that the security is held for him.

#### **Article 192: Right to reclaim possession**

If a security is wrongfully transferred from a person for any reason, including the person's incapacity, the person may take the following actions against anyone except a bona fide purchaser:

- (1). reclaim possession of the security;
- (2). obtain possession of any new security evidencing all or part of the same rights; or
- (3). claim damages.

If the transfer of a security is wrongful by reason of an unauthorized endorsement, the owner may reclaim possession of the security or a new security even from a bona fide purchaser if

the ineffectiveness of the purported endorsement may be asserted against such purchaser.

The right to reclaim possession of a security may be specifically enforced, its transfer may be restrained, and the security may be impounded pending litigation.

#### **Article 193: Right to require registration**

Unless otherwise agreed, a transferor shall supply a purchaser with proof of his authority to transfer or with any other requirement that is necessary to obtain registration of the transfer of a security. However, if the transfer is not for value, a transferor need not take these actions unless the purchaser pays the reasonable and necessary costs of the proof and transfer.

If the transferor fails to comply with the purchaser's demand within a reasonable time, the purchaser may reject or rescind the transfer.

#### **Article 194: Seizure of security**

No seizure of a security or other interest evidenced thereby is effective until the person making the seizure obtains possession of the security.

#### **Article 195: Registration of security in registered form**

Where a security in registered form is presented for transfer, the issuer shall register the transfer if

- (1).the security is endorsed by an appropriate person;
- (2).reasonable assurance is given that that endorsement is genuine and effective;
- (3). any applicable law relating to the collection of taxes has been complied with;
- (4).the transfer is rightful or is to a bona fide purchaser.

Where an issuer has a duty to register a transfer of a security, the issuer is liable to the person presenting it for registration for loss resulting from any unreasonable delay in registration or from failure or refusal to register the transfer.

#### **Article 196: Limitation of issuer's liability**

The issuer is not liable to the owner or any other person who incurs a loss as a result of the registration of a transfer of a security if the necessary endorsements were on or with the security and the issuer used reasonable care to determine the adequacy of the endorsement.

#### **Article 197: Notice of lost or stolen security**

Where a security has been lost or apparently destroyed, and the owner fails to notify the issuer of that fact by giving the issuer written notice within a reasonable time after he knows of the loss, destruction and if the issuer has registered a transfer of the security before receiving such notice, the owner is precluded from asserting against the issuer any claim to a new security.

#### **Article 198: Duty of issuer to issue a new security**

Where the owner of a security claims that the security has been lost or destroyed the issuer shall issue a new security in place of the original security if the owner

- (1). so requests before the issuer has notice that the security has been acquired by a bona fide purchaser;
- (2). furnishes the issuer with a sufficient indemnity bond; and
- (3). satisfies any other reasonable requirements imposed by the issuer.

If, after the issue of a new security under above paragraph, a bona fide purchaser presents the original security for registration of transfer, the issuer shall register the transfer.

In addition to any rights on an indemnity bond, the issuer may recover a new security issued from the person to whom it was issued.

### **G. Receivers and Receiver Managers**

#### **Article 199: Functions of receiver**

Except to the extent permitted by a court, a receiver may not carry on the business of the company. A receiver of any property of a company may, subject to the rights of secured creditors, receive the income from the property and pay the liabilities connected with the property. A receiver may also realize the security interest of the person on behalf of whom he is appointed.

#### **Article 200: Functions of receiver-manager**

The court may permit the receiver to carry on the business of the company for the purpose of protecting the securities of the persons on behalf of whom he is appointed. He is then named a receiver-manager.

#### **Article 201: Directors' powers cease**

If a receiver-manager is appointed by a court or under an instrument, the powers of the directors of the company ceases until the receiver-manager is discharged.

#### **Article 202: Powers of receiver**

A receiver or receiver-manager appointed by a court shall act in accordance with the directions of the court.

A receiver or receiver-manager appointed under an instrument shall act in accordance with that instrument and any direction of a court.

#### **Article 203: Duties of receiver and receiver-manager**

A receiver or receiver-manager shall

- (1). act honestly and in good faith, and deal with any property in his possession or control

- in a commercially reasonable manner;
- (2). immediately notify the Director of Companies of his appointment and discharge;
  - (3). take into his custody and control the property of the company in accordance with the court order or instrument under which he is appointed; open and maintain a bank account in his name as receiver or receiver-manager of the company for the moneys of the company coming under his control;
  - (4). keep detailed accounts of all transactions carried out by him as receiver or receiver-manager;
  - (5). keep accounts of his administration and make them available for inspection by the Directors of Companies during usual business hours;
  - (6). prepare at least once in every six (6) month period after the date of his appointment, the financial statements of his administration;
  - (7). on completion of his duties, render a final account of his administration.

#### **Article 204: Directions given by court**

On an application by a receiver or receiver-manager, or on an application by any interested person, a court may make any order it thinks fit including, without limiting the generality of the foregoing,

- (a) an order appointing, replacing or discharging a receiver or receiver-manager and approving his accounts;
- (b) an order determining the notice to be given to any person or dispensing with notice to any person;
- (c) an order fixing the remuneration of the receiver or receiver-manager;
- (d) an order giving directions on any matter relating to the duties of the receiver or receiver-manager.

### **H. Shareholders**

#### **Article 205: Place of meetings**

Shareholder general meetings shall be held at the place within the Kingdom of Cambodia provided in the articles or by-laws or that the directors determine.

A general meeting of shareholders may be held outside the Kingdom of Cambodia if all the shareholders entitled to vote at that meeting agree.

#### **Article 206: Directors calling meetings**

The directors of a company shall call an annual general meeting of shareholders not later than twelve (12) months after the company comes into existence.

The directors of a company may call a extraordinary meeting of shareholders at any time.

#### **Article 207: Shareholders calling meetings**

The shareholders may request the directors to call a general meeting of shareholders for the purposes stated in the request.

The request shall be made by the holders of not less than fifty-one (51) per cent of the issued



shares of a company that carry the right to vote at the meeting.

The request may consist of several form requests signed by one or more shareholders.

The request shall state the business to be transacted at the meeting and shall be sent to each director and to the registered office of the company.

On receiving the request, the directors shall call a general meeting of shareholders to transact the business stated in the request.

If the directors do not call a meeting, within twenty-one (21) days after receiving the request, any shareholder who signed the request may call the meeting.

Unless the shareholders otherwise make a resolution at the meeting they called, the company shall reimburse the shareholders the expenses reasonably incurred by them in requesting, calling and holding the meeting.

#### **Article 208: Meeting called by court**

If it is not practical to call or conduct a shareholders general meeting in the manner prescribed by the articles, or this law, or for any other reason, a director, shareholder entitled to vote at the meeting, or the Director of Companies may apply to the court for an order directing that a meeting be held and conducted in any manner the court deems appropriate.

The court may order that the quorum required by the articles or this law be varied or dispensed with at a meeting called, held and conducted pursuant to this article.

#### **Article 209: Establishing the record date**

The shareholders entitled to receive notice of a general meeting of shareholders shall be every holder of a share of the class or series affected whose name is set out in the securities register at the close of business on the record date established.

The directors may establish a record date, which shall not be more than fifty (50) days, or less than twenty (20) days before the date of the meeting.

If the directors do not establish a record date, the record date shall be

- (1). at the close of business on the day before notice of the meeting is given, or
- (2). if no notice is given, the day on which the meeting is held.

The record date to determine shareholders for any matter, other than the right to receive notice of a meeting and the right to vote, shall be at the close of business on the day that the directors pass the resolution relating to that matter.

#### **Article 210: Notice of record date**

If the directors establish a record date, the directors shall publish notice of the record date in a general circulation newspaper in the place where the company has its registered office.

The directors also shall provide written notice to every stock exchange in the Kingdom of Cambodia where the company's shares are listed for trading.

These notices shall be provided within seven (7) days after the directors establish the record date.

Notice of the record date is not required if the notice is waived in writing by every holder of a share of the class or series affected whose name is set out in the securities register at the close of business on the day the directors fix the record date.

#### **Article 211: Shareholder list**

A company shall prepare a list of shareholders entitled to receive notice of a meeting, arranged in alphabetical order and showing the number of shares held by each shareholder.

If the directors establish a record date, the directors shall prepare the list not later than ten (10) days after that date.

If the directors do not establish a record date, the list shall be prepared

- (1). at the close of business on the day immediately preceding the day on which the notice is given, or
- (2). where no notice is given, on the day on which the meeting is held.

#### **Article 212: Effect of list**

A person named in the list of shareholders is entitled to vote the shares shown opposite his name at the meeting to which the list relates.

If a person named on the list of shareholders transferred the ownership of any of his shares after record date, the transferee is entitled to vote his shares at the meeting after the two requirements had fulfilled:

- (1). produces properly endorsed share certificates, or otherwise establishes that he owns the shares, and
- (2). demands, not later than ten (10) days before the meeting as the articles or bylaws of the company provide, that his name be included in the list before the meeting.

#### **Article 213: Examination of list**

A shareholder may examine the list of shareholders

- (a) during usual business hours at the registered office of the company or at the place where its central securities register is maintained; and
- (b) at the general meeting of shareholders for which the list was prepared.

#### **Article 214: Notice of meeting**

A written notice of every general meeting of shareholders shall be given to all shareholders, directors, and the auditor at least twenty (20) days to fifty (50) days before the date of the

meeting.

The notice of shareholders general meetings shall state the date, agenda, and location of the meeting. When special business is to be discussed at the meeting:

- documents stating the nature of that business in sufficient detail to permit the shareholder to form a reasoned judgment; and
- the text of any special resolution to be submitted at the meeting. Failure to receive a notice does not deprive a shareholder of the right to vote at the meeting.

If a general meeting of shareholders is adjourned for less than thirty (30) days it is not necessary, unless the articles or bylaws otherwise provide, to give notice of the adjourned meeting, other than by announcement at the earliest meeting that is adjourned.

#### **Article 215: Waiver of notice**

A shareholder and any other person entitled to attend a general meeting of shareholders may waive notice of a meeting of shareholders.

However, a shareholder or person attendance at a general meeting of shareholders, may express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

#### **Article 216: Shareholder proposal**

A shareholder entitled to vote at an annual general meeting of shareholders may

- (a) submit to the company notice of any matter that he proposes to raise at the meeting, and
- (b) discuss at the meeting any other matter appropriate for a shareholder proposal.

#### **Article 217: Quorum**

Unless the articles provide otherwise, a quorum of shareholders general meeting are the holders of a majority of the shares entitled to vote at the meeting are present in person or represented by proxy.

If a quorum is present at the opening of a meeting of shareholders, the shareholders present may proceed with the business of the meeting.

If a quorum is not present at the opening of a meeting of shareholders, the shareholders present may adjourn the meeting to a fixed time and place but may not transact any other business.

#### **Article 218: Right to vote**

Every shareholder who owns voting shares or his proxy is entitled to attend and vote at the meeting in accordance with his share's voting rights.

If two or more persons hold shares jointly, one of those holders present at a meeting of shareholders may in the absence of the others vote the shares.

If two or more joint owners are present, in person or by proxy, they shall vote as one on the shares jointly held by them.

**Article 219: Proxy and pooling agreements**

Any shareholder may authorize any other natural person to represent and vote for him as a proxy at any meeting. All proxies shall be in writing and shall be signed by the shareholder and shall be dated.

A proxy shall not be valid for more than one (1) year after the date of its signature or for such shorter time as the proxy itself may provide.

Any number of shareholders may agree among themselves in writing to vote their shares in a certain manner.

**Article 220: Voting**

Unless the articles provide otherwise, election of the directors and decisions on other matters voted on by the shareholders shall be by secret ballot.

**Article 221: Written resolution in lieu of meeting**

A resolution in writing signed by all the shareholders entitled to vote on that resolution at a meeting of shareholders is as valid as if it had been passed at a meeting of the shareholders.

A resolution in writing dealing with all matters to be dealt with at a meeting of shareholders, and signed by all the shareholders entitled to vote at that meeting, satisfies all the requirements of this law relating to meetings of shareholders.

A copy of every resolution in lieu of a meeting shall be kept with the minutes of the meetings of shareholders.

**Article 222: Court review**

Any shareholder who does not receive written notice of a meeting and has reasonable proof thereof, has the right to petition to the court to reject any decision taken at such meeting.

A company, shareholder or director may apply to a court to determine any controversy with respect to an election or appointment of a director or auditor of the company.

**Article 223: Unanimous shareholder agreement**

An otherwise lawful written agreement among all the shareholders of a company that restricts in whole or in part the powers of the directors to manage the business and affairs of the company is valid.

A transferee of shares subject to a unanimous shareholder agreement is deemed to be a party

to the agreement.

A shareholder who is a party to a unanimous shareholder agreement has all the rights, and duties of a director to manage the business and affairs of the company to which the agreement relates. The directors are relieved of their duties and liabilities by a unanimous shareholder agreement.

A unanimous shareholder agreement shall be made between shareholders.

The unanimous shareholder agreement shall be kept in the company's record as described in Article 109. A unanimous shareholder agreement has to be written on the share certificate.

## **I. Financial Disclosure**

### **Article 224: Annual financial statements**

At every annual general meeting of shareholders, the directors shall present an annual financial statement to the shareholders. The statement shall include the following:

- (a) comparative financial statements for the current financial year and the prior financial year. In the first year of the company's existence, the financial statement shall cover the period beginning on the date the company came into existence and ending on a date not more than 6 months before the annual meeting;
- (b) the report of the auditor; and
- (c) any further information respecting the financial position of the company and the results of its operations required by the articles, the by-laws or any unanimous shareholder agreement.

### **Article 225: Examination by shareholders**

Shareholders of a company and their agents and legal representatives, upon request, may examine the annual financial statements during the normal business hours of the company and may make extracts free of charge.

### **Article 226: Approval and issuance of financial statements**

The directors of a company shall approve the annual financial statements and the approval shall be shown by the signature of one or more directors.

A company shall not issue, publish or circulate copies of the annual financial statements unless the financial statements are approved by the directors and accompanied by the auditor's report.

### **Article 227: Copies to shareholders**

Not less than twenty-one (21) days before each annual general meeting of shareholders or before the signing of a resolution in lieu of the annual general meeting, a company shall send a copy of the financial statements and supporting documents to each shareholder, except to a shareholder who has informed the company in writing that he does not want a copy of those documents.

**Article 228: Copies to Director**

A public limited company that has issued any securities to the public that remain outstanding and are held by more than one person shall send a copy of the financial statement and accompanying documents to the Director of Companies.

The statement and documents shall be sent not less than twenty-one (21) days before each annual general meeting of shareholders or immediately after the signing of a resolution in lieu of the annual general meeting.

**Article 229: Appointment of auditor**

The shareholders of a company shall appoint an auditor by ordinary resolution at the first annual general meeting of shareholders and at each succeeding annual general meeting.

The auditor shall hold office until the close of the next annual general meeting.

If an auditor is not appointed at a general meeting of shareholders, the incumbent auditor continues in office until a successor is appointed.

**Article 230: Exemption**

The shareholders of a company that has not issued any securities to the public, or that does not have any outstanding securities held by more than one person, may adopt a resolution not to appoint an auditor.

**Article 231: Remuneration**

The remuneration of an auditor may be set by ordinary resolution of the shareholders or, if not, may be set by the board of directors.

**Article 232: Removal, vacancies**

The shareholders may remove the auditor from office, other than an auditor appointed by a court or by ordinary resolution at a special general meeting. At the same meeting, the shareholders may appoint a replacement auditor.

Whenever there is a vacancy in the office of auditor, the board of directors shall call a special general meeting of shareholders to fill the vacancy within twenty-one (21) days after the vacancy is created.

An auditor appointed to fill a vacancy holds office for the unexpired term of his predecessor.

**Article 233: Court appointed auditor**

If a company does not have an auditor, the court, on the application of a shareholder or the Director of Companies, may appoint and set the remuneration of an auditor who holds office until a new auditor is appointed by the shareholders.

#### **Article 234: Powers and duties**

An auditor of a company shall make the examination that is in his opinion necessary to enable him to report to the shareholders on the financial statements required by this law.

On the demand of an auditor of a company, the present or former directors, officers, employees or agents of the company shall furnish such information, explanations, and access to books and records as the auditor deems necessary to fulfill his functions.

The auditor of a company is entitled to receive notice of every meeting of shareholders and, at the expense of the company, to attend and be heard on matters relating to his duties as auditor.

If a director or shareholder of a company, whether or not the shareholder is entitled to vote at the meeting, gives written notice not less than ten (10) days before a general meeting of shareholders to the auditor or a former auditor of the company, the auditor or former auditor shall attend the meeting at the expense of the company and answer questions relating to his duties as auditor.

### **J. Amendment of Articles of Incorporation**

#### **Article 235: Right to amend**

A limited company may amend its articles of incorporation several times and at any time.

#### **Article 236: Vote**

The articles of a company shall be amended by special resolution. The holders of each class of shares, or series of shares, are entitled to vote separately as a class or series, when the proposal to amend the articles is for the purpose of

- (1). adding, changing or removing rights, privileges, restrictions attaching to their class or series of shares;
- (2). increasing or decreasing the maximum number of shares of their class or series of shares;
- (3). increasing the maximum number of authorized shares of a class or series that have rights or privileges equal or superior to their shares;
- (4). creating a new class of shares equal or superior to the shares of their class or series;
- (5). making any class of shares having rights or privileges less than or equal or superior to their shares;
- (6). reduce the stated capital account of their class or series of shares.

Even if the articles state that a certain class or series of shares are not entitled to vote, the class or series of shares is always entitled to vote separately as a class or series, on any amendment to the articles that would change directly or indirectly, or adversely affect any rights, privileges, restrictions and conditions attaching to their class or series of shares.

The voting power authorized under this Article may not be abolished, decreased or limited by the articles of incorporation or in any other fashion.

**Article 237: Notice of meeting**

The company shall give written notice of any general meeting to amend the articles at least twenty days before the meeting to the shareholders entitled to vote on the amendment. A copy of the text of the proposed amendment shall be enclosed with the notice of the meeting.

**Article 238: Nature of amendments**

Amendments to the articles may:

- (a) Change the company's name;
- (b) Increase, decrease or change the purposes, objectives, or undertakings of the company;
- (c) Redistribute the number of shares in class with the changing of absolute and relative characteristics of any class of shares;
- (d) Change the dividend payable on any class of shares;
- (e) Increase its capital by creation new class of shares with its absolute and relative characteristics is superior or inferior the existing class of shares;
- (f) Decrease its stated capital by reduce the par value of any class or series of shares or the authorized shares. The stated capital may not be reduced to less than one half (1/2) of its capital provided for in the articles. No reduction of capital shall occur until ninety days after the amendment has been filed with the Ministry of Commerce. If during that time there has been any objection by any creditor, whose debt is not disputed by the company, the creditor shall be paid in full before the reduction can take effect;
- (g) Change the duration of the existence of the company;
- (h) Change the Registered Office;
- (i) Change the quorum;
- (j) Add any provision, which is authorized by this law to be included in the articles.

**Article 239: Filing amendments**

Every document concerning any amendment of the articles shall clearly state the date on which the amendments were approved by the shareholders and shall be at least signed by the chairman of the board of directors or any director authorized by the chairman.

All amendments approving the amendments shall be filed with the Ministry of Commerce no later than fifteen (15) days after the meeting at which they were approved.

**Article 240: Certificate of amendment**

On receipt of amendments to the articles the Director of Companies shall issue a certificate of amendment.

An amendment becomes effective on the date shown in the certificate of amendment of the Ministry of Commerce, unless the amendment itself specifies a later date, which may be no later than ninety (90) days after the date of the certificate.



## **K. Merger**

### **Article 241: Authority to merge**

Two or more companies may merge into one company or may consolidate to form a new company.

The dissolving company is called "**constituent company**". The company that continues the business is called the "**surviving company**". The legal personality of the constituent company ceases from the date the Ministry of Commerce issues a certificate of merger to the surviving company.

### **Article 242: Approval by Directors**

The board of director of each company that proposes to merge shall adopt a resolution approving an agreement for merger. Unless otherwise provided in the articles, the resolution shall be approved by a majority of a quorum of the directors.

### **Article 243: Merger Agreement**

The merger agreement shall state:

- (a) The terms and conditions of the merger;
- (b) The articles of incorporation of the surviving company;
- (c) The method of converting each class or series of shares of each constituent company into shares or other securities of the surviving company;
- (d) If any share of a constituent company is not to be converted into shares, the amount of money, rights, securities or other possessions that the holders of such shares shall receive in the merger;
- (e) Other information that the holders of each class of shares shall access before making decision to vote for merger; and
- (f) Details of any arrangements necessary to perfect the merger and to provide for the subsequent management and operation of the surviving company.

### **Article 244: Notice to shareholders**

After its board of directors approves a resolution of merger, each constituent companies, shareholders of surviving company shall send notice of shareholders meeting to each shareholder entitled to vote on the merger the following information:

- (a) Within thirty (30) days after the merger agreement, the board of directors of the constituent company shall convene a shareholders general meeting to approve on the merger;
- (b) The notice shall include a copy of the merger agreement;
- (c) Each constituent company shall give at least twenty days notice of the meeting of shareholders.

### **Article 245: Vote by shareholders**

Merger shall be approved by a special resolution of the shareholders at least two third (2/3) of each constituent company.

#### **Article 246: Votes by Class**

Even if the articles of incorporation state that a certain class of shares shall not be entitled to vote, such class of shares is always entitled to vote separately as a class on any proposed merger which would change, either directly or indirectly, any rights, privileges, restrictions and conditions of that class or series of shares.

The voting power authorized under this article may not be rejected or amended by the articles of incorporation or in any other fashion.

#### **Article 247: Filing Articles of Merger**

The directors of the surviving company shall file the following documents with the Ministry of Commerce:

- (a) The agreement of merger;
- (b) Resolutions of the board of directors and shareholders of each constituent company on the agreement of merger;
- (c) Articles of incorporation of the surviving company;
- (d) Statements by a director or officer of each constituent company that establishes, to the satisfaction of the Director of Companies, that there are reasonable grounds for believing that
  - (i) each constituent company and the surviving company is able to pay its liabilities as they become due;  
  
the realizable value of the surviving company's assets will not be less than the aggregate of its liabilities and stated capital of all classes;
  - (iii) no creditor will be prejudiced by the merger;
  - (iv) adequate written notice has been given to all known creditors of the constituent companies and no creditor has made valid and credible objections to the merger.

#### **Article 248: Effect of merger**

On receipt of articles of merger, the Ministry of Commerce shall issue a certificate of merger. On the date shown in a certificate of merger

- (a) the merger of the constituent companies and their continuance as one company become effective;
- (b) the property of each constituent company continues to be the property of the surviving company;
- (c) the surviving company continues to be liable for the obligations of each constituent company;
- (d) any civil, criminal or administrative matters involving any constituent company remain effective in relation to the surviving company; and
- (e) the articles of merger are deemed to be the articles of incorporation of the surviving company and the certificate of merger is deemed to be the certificate of incorporation of the surviving company.

#### **Article 249: Right to demand appraisal**

Any shareholder of any constituent company in a merger may request an appraisal of the value of his shares in the constituent company. However, in order to be entitled to have an appraisal, the shareholder shall meet all of the following conditions:

- (a) The shareholder owned shares in one of the constituent companies before the shareholders voted to approve the merger;
- (b) The shareholder did not vote in favor of the merger;
- (c) The shareholder makes a written demand to the surviving company after the articles of merger are filed with the Ministry of Commerce; and
- (d) The shareholder surrenders his shares certificate to the surviving company at the same time he makes his demand for appraisal.

#### **Article 250: Appraisal Procedure**

When an appraisal is demanded, the surviving company and each complaining shareholder shall, for up to ninety (90) days, negotiate in order to attempt to agree on a fair price for the shares.

The fair price shall be determined by examining all relevant factors, but excluding any value created by the merger itself.

The articles of incorporation of any constituent company or the agreement of merger may provide that all appraisal disputes be decided by arbitration. Any shareholder may, at any time before the last arbitration's decision, abandon his claim for appraisal. In this case, he shall be entitled to receive from the surviving company the same payment as he would otherwise have received in the merger.

If they are unable to agree on a fair price, the competent court shall decide such price and the complaining shareholder shall be entitled to receive that amount.

### **L. Dissolution and Liquidation**

#### **Article 251: Dissolution**

A company that has not issued any shares may be dissolved at any time by resolution of all the directors.

A company that has no property and no liabilities may be dissolved by special resolution of the shareholders or, where it has issued more than one class of shares, by special resolutions of the holders of each class whether or not they are otherwise entitled to vote.

The company shall send articles of dissolution in the prescribed form to the Director of Companies.

On receipt of articles of dissolution, the Director of Companies shall issue a certificate of dissolution. The company ceases to exist on the date shown in the certificate of dissolution.

**Article 252: Proposing liquidation and dissolution**

The directors may propose, or a shareholder who is entitled to vote at a general meeting of shareholders may make a proposal for, the voluntary liquidation and dissolution of a company.

Notice of any meeting of shareholders at which voluntary liquidation and dissolution is to be proposed shall set out the terms for liquidation and dissolution.

A company that has property and/or liabilities may be dissolved by special resolution of the shareholders of each class. In case the company has issued more than one class of shares, by special resolutions of the holders of each class whether or not they are otherwise entitled to vote, if

- (1) by the special resolution or resolutions the shareholders authorize the directors to distribute any property and discharge any liabilities of the company.
- (2) the company has distributed any property and discharged any liabilities before it sends articles of dissolution to the Director of Companies.

**Article 253: Statement of intent to dissolve**

After approval of a resolution to liquidate and dissolve, the company shall send a statement of intent to dissolve in prescribed form to the Director of Companies.

On receipt of a statement of intent to dissolve, the Director of Companies shall issue a certificate of intent to dissolve.

On issue of a certificate of intent to dissolve, the company shall cease to carry on business except to the extent necessary for the liquidation, but its legal personality continues until the Ministry of Commerce issues a certificate of dissolution.

**Article 254: Notice of Intent to Dissolve**

After issue of a certificate of intent to dissolve, the Director of Companies, the company shall

- (a) immediately send notice of intent to resolve to each known creditor of the company;
- (b) immediately publish notice of intent to dissolve for two (2) consecutive weeks in a newspaper published or distributed in the place where the company has its registered office, or in other publications as provided by regulations of the Ministry of Commerce.

**Article 255: Liquidation**

After issuance of a certificate of intent to dissolve, the company shall

- collect its property,
- dispose of properties that are not to be distributed in kind to its shareholders,
- discharge all its obligations, and

- do all other acts required to liquidate its business.

After giving the notice of intent to resolve, and adequately providing for the payment or discharge of all its obligations, the company shall distribute its remaining property, either in money or in kind, among its shareholders according to their respective rights.

#### **Article 256: Supervision by court**

The Director of Companies or any interested person may, at any time during the liquidation of a company, apply to a court for an order that the liquidation be continued under the supervision of the court.

An applicant shall give the Ministry of Commerce notice of the application, and the Director of Companies is entitled to appear and be heard in person or by counsel.

#### **Article 257: Dissolution**

After the liquidation is terminated, the company shall prepare articles of dissolution. Articles of dissolution in prescribed form shall be sent to the Director of Companies.

On receipt of articles of dissolution, the Director of Companies shall issue a certificate of dissolution. The company ceases to exist on the date shown in the certificate of dissolution.

#### **Article 258:**

The dissolution and liquidation provisions shall not apply to any company that has applied for bankruptcy to the court.

### **M. Director of Companies**

#### **Article 259: Appointment of Director of Companies**

The Ministry of Commerce shall appoint one or more Director of Companies to carry out the duties and exercise the powers of the Director of Companies under this law.

#### **Article 260: Certificate of Director of Companies**

Where this law requires or authorizes the Ministry of Commerce to issue a certificate or to certify any fact, the certificate shall be signed by the Director of Companies.

#### **Article 261: Copies**

Where a notice or document is required to be sent to the Director of Companies , the Director of Companies may accept a photocopy.

#### **Article 262: Proof required by Director of Companies**

The Director of Companies may require that a document or a fact stated in a document to be

sent to him shall be verified by affidavit.

### **Article 263: Regulations**

The Ministry of Commerce may make regulations

- (a) prescribing any matter required or authorized by this law to be prescribed;
- (b) requiring the payment of a fee in respect of the filing, examination or copying of any document, or in respect of any action;
- (c) prescribing the contents and electronic or other forms of notices and documents required to be sent to or issued by the Ministry of Commerce;
- (d) respecting the sending or issuance of notices and documents; and prescribing rules with respect to exemptions permitted by this law.

### **Article 264: Filing of articles and dissolution plans**

Articles or a dissolution plan to be sent to the Ministry of Commerce shall be signed by a director or an officer of the company or, in the case of articles of incorporation, by an incorporator.

After receiving the articles or plan in the prescribed form the Director of Companies shall

- (1) record the date of the filing,
- (2) issue the appropriate certificate,
- (3) file the certificate and the articles or statement, photographic, electronic or other reproduction of the certificate and of the articles or statement,
- (4) send the certificate and the articles or statement, photographic, electronic or other reproduction of the certificate and of the articles or statement, to the company or its representative, and
- (5) publish a notice of the issuance of the certificate in the Gazette of the Ministry of Commerce.

### **Article 265: Date of certificate**

A certificate issued by the Ministry of Commerce may be dated as of the day he receives the articles, plan or court order pursuant to which the certificate is issued or as of any later day specified by the court or person who signed the articles or plan.

### **Article 266: Certificate of compliance**

The Director of Companies may furnish any person with a certificate and necessary documents that a company has sent to the Ministry of Commerce required under this law.

### **Article 267: Corrections**

If a certificate containing an error is issued to a company by the Director of Companies, the directors or shareholders of the company shall, on the request of the Director of Companies, pass the resolutions and send to him the documents required to comply with this law. The Ministry of Commerce may, if there is a reasonable reason, demand the surrender of the certificate and issue a corrected certificate.

A corrected certificate shall have the same date as the certificate it replaces.

If a corrected certificate materially amends the terms of the original certificate, the Director of Companies shall immediately give notice of the correction in the Gazette of the Ministry of Commerce.

**Article 268: Inspection and copies of records**

A person who has paid the prescribed fee is entitled to examine, during usual business hours, a document sent to the Ministry of Commerce, and to make copies or extracts of reports. This article does not apply to reports of court-ordered investigations.

The Director of Companies shall furnish any person with a copy or a certified copy of documents covered by this article.

Where records are maintained by the Ministry of Commerce otherwise than in written form,

- (a) the Ministry of Commerce shall furnish any copy required to be furnished under this article in readable form; and
- (b) a report reproduced from those records, if it is certified by the Director of Companies, is admissible in evidence to the same extent as the original records.

**Article 269: Retention of records**

The Ministry of Commerce is not required to produce any document, other than a certificate and attached articles or dissolution plan, after ten years from the date he receives it.

**Chapter 4 – Foreign Business  
General Provisions**

**Article 270: Foreign business defined**

A foreign business is a legal person formed under the laws of a foreign country having a place of business in, and doing business in the Kingdom of Cambodia.

**Article 271: Forms**

A foreign business may conduct business in the Kingdom of Cambodia in the following forms:

- (a) commercial representative office or commercial relations office, or
- (b) branch,
- (c) subsidiary.

The commercial representative office and branch are agents of their principals and do not have legal personality separate from their principals.

**Article 272: Doing business**

A foreign business shall be considered to be “**doing business**” if the foreign business performs any of the following acts in the Kingdom of Cambodia:

- (a) Rents office or any other space for manufacturing, or processing, or performing services for more than one month;
- (b) Employs any person to work for it for more than one month;
- (c) Performs any other act that laws of the Kingdom of Cambodia authorized for foreign natural and legal persons.

**Article 273: Subject to local law**

A foreign business doing business in any forms within the Kingdom of Cambodia shall be subject to the laws and the jurisdiction of courts of the Kingdom of Cambodia.

A foreign business shall comply with the registration requirements of the Law on Commercial Rules and Register.

**A. Representative Office****Article 274: Authorized activities**

A commercial representative office or commercial relations office may perform the following acts in the Kingdom of Cambodia:

- (a) Contact customers for the purpose of introducing customers to its principal.
- (b) Research commercial information and provide the information to its principal.
- (c) Conduct market research.
- (d) Market goods at trade fairs, and exhibit samples and goods in its office or at trade fairs.
- (e) Purchase and keep a quantity of goods for the purpose of trade fairs.
- (f) Rent an office and employ local staff.
- (g) Enter into contracts with local customers on behalf of its principal.

However, a commercial representative office or commercial relations office may not regularly buy or sell goods, perform services, or engage in manufacturing, processing or construction.

**Article 275: Management**

A commercial representative office or commercial relations office shall be managed by one or more managers appointed and removed by its principal.

**Article 276: Name**

The name of the commercial representative office or commercial relations office shall be the name of its principal. The words "Commercial Representative Office" or "Commercial Relations Office" shall be placed above or in front of the name.



**Article 277: Closing representative office**

A commercial representative office or commercial relations office may be closed by a decision of its principal.

**B. Branch****Article 278: Authorized activities**

A branch may perform the same acts as a commercial representative office.

In addition, a branch may regularly buy and sell goods and services and engage in manufacturing, processing and construction same as the local company except any acts that prohibited for natural or legal person who is foreigner.

**Article 279: Liability**

The assets of the branch shall be the assets of the principal. The principal shall be liable for any obligations of the branch.

**Article 280: Management**

A branch shall be managed by one or more managers appointed and removed by the decision of the principal.

**Article 281: Name**

The name of a branch shall be the name of its principal. The words "Branch " shall be placed above or in front of the name.

**Article 282: Closing branch**

A branch may be closed by the decision of its principal.

**C. Subsidiary****Article 283:**

A subsidiary is a company that incorporated by the foreign company in the Kingdom of Cambodia with at least fifty-one (51) percent of its capital that held by the foreign company.

**Article 284:**

A subsidiary has legal personality separate from their principals from the date of its registration pursuant to the Law on Commercial Rules and Register.

**Article 285:**

A subsidiary may be incorporated in the form of partnership or limited company.

**Article 286:**

A subsidiary may regularly carry on business same as the local company except for any acts that prohibited for natural or legal person who is foreigner.

**Chapter 5 – Derivative Action****Article 287:**

A shareholder may bring an action or intervene in the name and right of a company. The shareholder shall meet all of the following conditions:

- (a) be a shareholder or the heir of a shareholder during the period within which occurred the transaction of the company giving rise to the complaint;
- (b) did not vote in favor of the transaction or ratify it in any other fashion;
- (c) made a written demand to the board of directors for resolution of the dispute which was not resolved by the directors;
- (d) gave reasonable notice to the board of directors before submitting the matter to the court. After they are filed, derivative actions may not be settled without the approval of the court.

**Article 288: Recovery in derivative action**

Any recovery in a derivative action shall be the property of the company. If a derivative action results in a benefit o the company, the shareholder who brought the derivative action may apply to the court for reasonable fee.

**Article 289: Duty of care of directors and officers**

Every director and officer in exercising his duties shall:

- (a) act honestly and in good faith with a view to the best interests of the company;
- (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstance.

The articles or bylaws may provide that any dispute between the directors and shareholders shall submit to arbitration.

**Chapter 6 – Offences, Penalties and Remedies****Article 290: False and misleading reports**

A person who makes or assists in making a false or misleading report, return, notice or other document to be sent to the Ministry of Commerce, or to any other person, is guilty of an offence and liable to a fine from one (1) million to 10 million riels, or to imprisonment for a term not exceeding six (6) months or to both excluding civil remedy or criminal action mentioned in relevant laws.

**Article 291: Order to comply**

Where a company commits an offence, any director or officer of the company who knowingly authorized, permitted or acquiesced in the commission of the offence is a party to and guilty of the offence and is liable to fine as provide for in Article 290.

**Article 292: Limitation period**

A prosecution for an offence under this law may be instituted at any time within but not later than three (3) years after the time when the subject matter of the complaint arose.

**Article 293: Civil remedy not affected**

No civil remedy for an act or omission is suspended or affected by reason that the act or omission is an offence under this law.

**Article 294: Registration, filing and publication**

A company and a natural person who, without reasonable cause, does not comply with the registration, filing and publication requirements of this law may be prosecuted pursuant to articles 43 and 44 of the Law on Commercial Rules and Register as amended.

**Article 295: Company books and records**

A company or a natural person who violates any provision of Part 2(C) of Chapter 3, relating to company books and records may be prosecuted pursuant to articles 43 and 44 of the Law on Commercial Rules and Register as amended.

**Article 296: Financial statements to shareholders**

A company that, without reasonable cause, fails to send copies of financial statements to shareholders as required by Article 227 guilty of an offence and upon conviction is liable to a fine from one million to 10 million riels.

**Article 297: Financial statements to Director of Companies**

A company that, without reasonable cause, fails to send copies of financial statements to the Director of Companies as required by Article 228 is guilty of an offence and liable on summary conviction to a fine from one million to 10 million riels.

**Article 298: Auditor**

An auditor or former auditor of a company who fails without reasonable cause to comply with the requirement to attend shareholder general meetings as required by Article 234 is guilty of an offence and liable on summary conviction to a fine from one million to 10 million riels or to imprisonment for a term not exceeding six (6) months or to both.

**Article 299:**

The Director of Companies who has committed gross negligence, careless, or failed to comply with the regulation of the Ministry of Commerce or conspire to commit such offense shall be liable for an administrative penalty and/or prosecution before the court of law.

**Chapter 7 – Transitional Provisions**

**Article 300:**

This Law shall not affect the validity and operations of all companies that have properly registered in the Commercial Register of the Kingdom of Cambodia.

**Article 301:**

This Law shall apply to the operations of all companies in relation to the submission of document and information to the Ministry of Commerce.

**Article 302:**

The Ministry of Commerce shall according to this Law prepare a model of Memorandum and Articles of Association and guideline for the Amendment of Memorandum and Articles of Association in order to publicize to the registered companies that have intent to amend its Memorandum and Articles of Association.

**Chapter 8 – Final Provisions**

**Article 303: Contradiction**

Any provisions that contradict this Law shall consider null and void.

**Article 304: Promulgation**

This law shall be promulgated as urgent.

Signature: NORODOM SIHAMONI