

## BUSINESS COOPERATION CONTRACT

THIS AGREEMENT is made on this [ ] day of [ ] between:

Party A: [ ]  
The Decision of establishment No. [ ] dated [ ] issued by the People's Committee of Ho Chi Minh City.  
Address:  
Tel:  
Fax:  
Account No.:  
Tax Code:  
Represented by Mr. [ ] - General Director

and

Party B: [ ]  
Business registration Certificate No. [ ] dated [ ] issued by the Service of Planning and Investment of Ho Chi Minh City.  
Address:  
Tel:  
Fax:  
Account No.:  
Tax Code:  
Represented by Mr. [ ] - General Director  
(According to Section 6 of the Business Registration Certificate)

WHEREAS: [ ]

### **ARTICLE 1: PURPOSE OF THE CONTRACT**

1.1 Both parties cooperate to establish a business cooperation unit (business cooperation) for building and managing the business of \_\_\_\_\_ including the following services:

- \_\_\_\_\_

1.2 The business cooperation unit shall not have a separate legal status but will use the legal status of party A. However, the accounts of the cooperation unit shall be made separately from either party.

1.3 Place of the cooperation:

The aforementioned cooperation shall be carried out at [ ] with an area of [ ] m<sup>2</sup> (in accordance with the attached site plan).

1.4 The activities of the BCC shall comply with all provisions on specialized management and other regulations of the laws of Vietnam.

### **ARTICLE 2: TERM OF THE CONTRACT**

The term of the contract shall be 10 years from the date when the BCC officially begins to operate its business. The BCC shall officially commence its business not later than 120 days from the date of handing over of the premises.

### **ARTICLE 3: RIGHTS AND OBLIGATIONS OF EACH PARTY**

#### **3.1 Rights and Obligations of Party A:**

Party A has the rights and obligations as follows:

- 3.1.1 Party A shall officially hand over the premises to party B within 30 days from the date of signing this contract and receiving the security deposit from party B.
- 3.1.2 To ensure the legality of the business cooperation.
- 3.1.3 To represent that the Business Cooperation is to be responsible for the legal liability of business activities of business cooperation unit
- 3.1.4 To contact the relevant agencies for necessary assistance to ensure the security and order at the BCC.
- 3.1.5 To ensure the full provision of electric, water, [ ] to the BCC.
- 3.1.6 To take part in the operation and management of the BCC; check and supervise business activities to detect timely errors to give solution.
- 3.1.7 To enjoy profit as provided for at Article 8 of this Contract.
- 3.1.8 To represent the unit to pay the taxes and other obligations of the unit in accordance with provisions of State.

#### **3.2 Rights and Obligations of Party B:**

Party B has rights and obligations as follows:

- 3.2.1 To invest in the total capital for purchasing and/or leasing equipment, machinery of the business cooperation unit including working capital. Party B shall take legal liability for all the procedures of import and export of machinery and equipment which party B has purchased or leased including the precision of the purchase or lease price as well as the documents, information having been declared to Customs and the quality of the imported machinery (machinery is brand new and of latest models).
- 3.2.2 To invest capital for designing, renovating and repairing, decorating the premises... of the business cooperation unit.
- 3.2.3 To design and execute the work of renovating the premises in accordance with the model of operation. All the design of renovating the premises must be approved by party A before the commencement of the work.
- 3.2.4 To make the security deposit as provided for in Article 5 and payment of depreciation of the premises, electric, water, telephone charges on time to party A.
- 3.2.5 To have the right to recover the depreciation of fixed assets (deducting the depreciation of premises) in accordance with provisions of the State.
- 3.2.6 To enjoy profit as provided for in Article 8 of this Contract.
- 3.2.7 To be responsible for managing, conducting the business in accordance with the business purposes, plans agreed by both parties.

- 3.2.8 To pay taxes and obligations on Party B's income earned from the cooperation unit in accordance with the regulations of the State.
- 3.2.9 Party B is not allowed to use the premises put into the business cooperation by Party A or Party B's assets put into the cooperation unit to mortgage or pledge. If party B violates, Party A will unilaterally terminate the contract, take back the premises and nor return the security deposit. Party B must be responsible to the laws for this action and compensate Party a, if any.
- 3.2.10 Party B is not allowed to assign its rights and obligations to any third parties without Party A's consent.

#### **ARTICLE 4: CONTRIBUTION OF CAPITAL**

- 4.1 Party A contributes the capital by the value of the entire exiting premises (the drawing attached).
- 4.2 Party B contributes capital by the total value of purchasing equipment, tools serving the BCC, the value of the finalization of repair, renovation and completion of material facilities of the BCC and working capital.
- 4.3 In the event party B contributes capital in the form of leasing machines:
- + If the lease of machines by the business cooperation shows that it is effective, the business cooperation unit shall pay the monthly rent to the machine-leasing party through party B for 5 (five) years of business. After this period, party B has to undertake not to account the rent of leasing machines and these machines shall be continuously used by the business cooperation unit until both parties agree to buy or lease new machines.
  - + If the lease of machines by the business cooperation shows that it is not effective, party B undertakes to replace new machines to fit the practical situation of business. Both parties agree to negotiate again the price of leasing machines, time for payment of rent according to the kind of leased machines at that time.
- 4.4 The total of investment capital must be confirmed by both parties in writing.

#### **ARTICLE 5: SECURITY DEPOSIT**

- 5.1 Within 10 days from the date of signing this contract, party B has to deposit a sum of money to secure the use of the premises of the hotel of \_\_\_\_\_ (Fifty Thousand United States Dollars).
- 5.2 This security deposit shall be refunded to party B without interest within 7 days from the date of expiration of the contract and after the effective date of liquidation and finalization.
- 5.3 Party B is not allowed to use the security deposit to set off payment at any form.

#### **ARTICLE 6: ORGANIZATION OF OPERATION AND MANAGEMENT**

- 6.1 Both parties agree to establish an Executive Board including:
- Party A:
    - To appoint Director of the Board being responsible for legal issues and ensuring that the unit operates in accordance with the provisions of State and security and order of the BCC.
    - To appoint the financial controller. The financial controller has the right to check and control all the fields of financial accounting of the unit at any time.

The Chief Accountant has to fully report the financial situation according to the request of the controller.

- To appoint the cashier of the unit.
  - Party B:
    - To appoint the vice Director of the Board being responsible for business and technical issues.
    - To appoint the Chief Accountant.
- 6.2 The organization, management and business of the BCC shall be arranged according to principles:
- The BCC is a business part directly under the hotel, managed and accounted separately in accordance with the provisions of party A with the unanimity of party B.
  - The organization of the system, regulations of operation, detail regulation of labor of the BCC shall be negotiated and agreed by both parties on the basis of implementing and properly complying the current provisions and policy of the State and laws on labor.
- 6.3 Party B shall be responsible for recruiting staffs working at the BCC but party A shall represent the cooperation unit to directly sign labor contracts with staffs having been recruited.
- The recruited staffs have to meet the conditions of recruiting in accordance with the law of Vietnam.

## **ARTICLE 7: FINANCIAL ACCOUNTING**

- 7.1 All the expenses/incomes of the BCC are accounted as the BCC is a business unit under Party A's hotel. All the books and documents related to the operation of the BCC will be stored in accordance with the provisions of the State.
- 7.2 The financial year of the BCC starts on 1 January and ends on 31 December. However, the first financial year will start from the date of operation of the BCC until 31 December of that year.
- 7.3 The accounting system of the BCC will comply with the principles of the Ministry of Finance. The asset depreciation will be calculated in accordance with the provisions of the Ministry of Finance of Vietnam.
- 7.4 Party A and Party B each has the right to examine the accounting books of the BCC and the BCC must facilitate such examinations.

## **ARTICLE 8: PROFIT SHARING**

- 8.1 Party A will be advanced with the appreciation of the premises as follows:
- From the 1<sup>st</sup> to the 5<sup>th</sup> year:
  - From the 6<sup>th</sup> to the 10<sup>th</sup> year:
- The date when the premise is depreciated is the opening day of the BCC, but not over 120 days from the date when the premises are handed over.
- This amount will be received from the 1<sup>st</sup> to the 5<sup>th</sup> of each month. In case the BCC cannot afford the payment, Party B will have to pay such amount to Party A.
- 8.2 Profit, or business result, means total income earned at the time of business cooperation minus the business expense (defined in Article 8.6) and will be shared by both parties

upon the payment of corporate income tax in accordance with the applicable provisions at the ratio:

- From the 1<sup>st</sup> to the 5<sup>th</sup> year: : 25% : 75%
- From the 6<sup>th</sup> to the 10<sup>th</sup> year: : 45% : 55%

8.3 In any event, if the BCC incurs losses, Party A will not be liable for sharing such losses.

8.4 From the 1<sup>st</sup> to the 10<sup>th</sup> of each month, the BCC will temporarily finalize the business result of the previous month and advance the profit share to the two parties. At the end of the year, the BCC will finalize the business result of the whole year and draw up the final balance sheet and adjust the amount of profit share.

8.5 The Total Income includes all the sources of income related to the lawful activities of the BCC.

8.6 The Business expenses of the BCC:

- Staff's salary
- Electricity, water, communication
- Depreciation of Party A's machinery, equipment and premises
- Rent of machinery, equipment, if any
- Turnover tax, special sales tax
- Prime cost of goods
- Overheads
- Insurance of construction works, machinery, equipment and social insurance
- Advertisement and marketing
- Maintenance, replacement of fixtures and fittings (maximum limit of 3% of income).

## **ARTICLE 9: INSURANCE**

The BCC will keep all its assets insured by the Insurance Company of Vietnam or any international insurance company operating lawfully in Vietnam.

## **ARTICLE 10: FORCE MAJEURE**

10.1 If there are a decision of the Government to stop the business operation, war, terrorism, explosion, bombing, flood, fire... or unforeseeable natural disasters which are beyond the control of one Party then that Party is exempted from fulfilling the obligations which it is not able to fulfill and it will bear no legal responsibility to the other Party due to such force majeure.

10.2 In case the business permit is revoked by the Government at no party's default, this fact is also considered force majeure.

10.3 The parties agree that in case the said force majeure happens to the BCC, the parties will try their best endeavour to make out proper measures to remove or restrict the consequences.

## **ARTICLE 11: CONCILIATION AND ARBITRATION**

All the disputes between the Parties arising from the implementation of this Contract will be firstly resolved by negotiation and conciliation or brought to the Economic Court, the People's Court of Ho Chi Minh City for judgment. The judgment of the court will be final and enforce the strict abidance by both parties.

## **ARTICLE 12: TERMINATION OF THE CONTRACT**

12.1 This contract will be terminated in the occurrence of the following events:

12.1.1 The end of the duration as agreed by both parties.

12.1.2 Fore majeure stated in Article 10

12.1.3 Both parties violate any provisions of this Contract.

- In case Party B is the defaulting party, Party A has the right to unilaterally liquidate the Contract, take back the premises and make no refund to Party B, including Party's security deposit. Except for fire, each party will receive the compensation in accordance with the value of its assets.
- In case Party A is the defaulting party (except for Article 12.2.2), Party B has the right to terminate the Contract and remove all the assets invested by Party B in the BCC and Party A will have to compensate Party for losses, if any.

12.1.4 The decision of Court forcing the termination of the Contract in accordance with Article 11 above.

12.2 Termination of contract prior to expiry:

12.2.1 If Party B wants to terminate the BCC prior to its expiry, Party B must send written notice to Party A 3 (three) months in advance, and at the same time settle all the relevant debts as stipulated by Article 3.2 and Articles 8.1 and 8.2 of this Contract. In this case, Party a will not return the security deposit to Party B.

However, upon Party B's notice of the termination of the contract prior to its expiry as stated in Article 14.2, Party B still has to pay the depreciation of premises to Party A until the actual date of handing over the premises.

12.2.2 If Party A wants to terminate the BCC prior to its expiry, Party A must send written notice to Party B 6 (six) months in advance, Party A will have to compensate the remaining value of machinery, equipment which has not been depreciated per the accounting books. In this case, Party A will return the security deposit to Party B and compensate the profit Party B should have received during the remaining period of the Contract; the basis for calculating such compensation is the average profit of the 12 previous months multiplied by the number of remaining months.

12.3 When termination the BCC (on or prior to its expiry), both Parties have to make the minutes of contract liquidation. Party B will have to return the premises, together with fixtures and fittings attached to the construction work, except for the separate fixtures and fittings invested by Party B to serve its business which Party B has the right to take back.

### **ARTICLE 13: ASSIGNMENT**

In the valid duration of the contract, Party B is not allowed to lease, transfer or exchange (the premises?) to any individual or third party without the prior consent of Party A.

### **ARTICLE 14: LIQUIDATION**

14.1 In case of termination of the contract on or prior to its expiry (force majeure, arbitration body's declaration of the termination...) both parties will appoint a Liquidation Committee and carry out the procedures of liquidating the assets of the BCC in accordance with the laws of Vietnam and this Contract.

14.2 The Liquidation Committee will consist of 4 (four) persons. Each party will appoint 2 (two) persons. The term of office of the Liquidation Committee will be 6 (six) months at most from the date of its establishment.



14.3 The procedures of liquidation will be agreed by the Parties in details. All the costs of liquidation will be borne by the BCC and all the payments will be made in accordance with the order regulated by the state.

#### **ARTICLE 15: OTHER PROVISIONS**

15.1 This Contract may be amended, supplemented if agreed by the Parties in writing.

15.2 Other matters not mentioned in this Contract will be considered and carried out by the Parties in accordance with the applicable relevant regulations, acts, ordinances and decrees of the laws of Vietnam.

15.3 The signing and execution of this BCC will be governed by the Laws of Vietnam.

15.4 In the course of implementation of this Contract, both Parties will try to discuss and resolve in mutual respect any matters arising. Any amendments to this Contract will be valid only when being made in writing.

This Contract is made into 4 (four) original copies which is effective from the date of its signing, each Party keeps 2 (two) copies with the same legal validity.

REPRESENTATIVE

REPRESENTATIVE

**KHOA TIN**  
**LAW FIRM**

