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# Legal news

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## Highlighted

### 1. Government Guarantee on investment projects

*On 16<sup>th</sup> January 2017, the Government issued Decree No. 04/2017/ND-CP, on the issuance and management of Government guarantees, which shall take effect on 1<sup>st</sup> March 2017.*

Accordingly, the Government shall guarantee for the principals of loans or bonds issued for an investment project or program not exceeding 70% of total investment capital of that project or program.

With respect to projects of which investment policies are approved by the National Assembly or the Government, or projects to be urgently deployed, the guarantee amount shall be the principal of loan or issued bond, provided that it shall not exceed 70% of total investment capital of that project as defined in the investment decision. With respect to a group-A project with total investment capital worth VND 2,300 billion or above and having the investment preliminary proposal approved by the Government, the guarantee amount shall be the principal of loan or issued bond, provided that it shall not exceed 60% of total investment capital. With respect to a project of other kinds, the guarantee amount shall be the principal of loan or issued bond, provided that it shall not exceed 50% of total investment capital.

The Decree also stipulates conditions to obtain a Government Guarantee such as: being an enterprise, being established under the laws of Vietnam, having legal status and having operated during at least 03 years; having a good financial health without accumulated losses, etc.

### 2. Amended regulations on issuance of certificates of land use rights

*On 6<sup>th</sup> January 2017, the Government issued Decree No. 01/2017/ND-CP, amending and supplementing some Decrees detailing the implementation of Law on Land.*

This Decree amends and supplements some articles of Decree No.43/2014/ND-CP dated 15<sup>th</sup> May 2014, detailing some articles of Law on Land; Decree No. 44/2014/ND-CP dated 15<sup>th</sup> May 2014, providing for land prices; and Decree No. 47/2014/ND-CP dated 15<sup>th</sup> May 2014 providing for the compensation, support, and resettlement when the State recovers land. Specifically:

- (a) Some administrative procedures in the field of land shall take one half or one third of time as compared to previous regulations.

Notably, the time for registration and issuance of certificates of land use rights, ownership of houses and other assets attached to land (“red books”) to transferees and the time for registration and issuance of certificates of ownership of houses and building works of organizations investing in their construction is no more than 15 days (the previous regulations required 30 days).

The time for registration and issuance of red books for additional assets attached to land is also reduced to 15 days instead of 20 days as previously.

The time for the procedures for re-issuance of red books, certificates of ownership of houses, and certificates of ownerships of building works is also reduced by two thirds, to 10 days instead of 30 days.

- (b) In comparison with Decree No. 43/2014/ND-CP and Decree No.01/2017/ND-CP, the new Decree adds the provision on issuing certificates of land use rights and ownership of houses and other assets attached to land for the land surface area in excess of that specified in the documents on land use rights to households and individuals using land.

Accordingly, if an actual area of land, when re-measured, is larger than that specified in the certificate of land use rights or relevant documents pursuant to Article 100 of the Law on Land and Article 18 of this Decree and the actual boundaries of land parcel are different from those acknowledged upon the issuance of the certificate of land use rights or relevant documents, the certification of land use rights, ownership of houses and other assets attached to land over the area of land in excess shall be considered.

Specifically, in case where the surface area of land is increased due to the transfer, inheritance, or donation of land use rights for which the documents on the right to use the original land parcel are available, the procedures for transfer, inheritance or donation of the additional land area according to Article 79 and Clause 2 of Article 82 of this Decree and procedures for replacement of the certificate for the original land parcel (i.e. parcel without the additional land) according to Article 76 of this Decree, if the certificate of land use rights for the additional land area is available, will apply and the land user is not required to conduct procedures for consolidation of land parcel. Land registration office shall be responsible for providing confirmation on the form of application for reissuance or replacement of the certificate of land use rights and ownership of house and assets attached to land over the additional land area and for sending cadastral information to the relevant tax authority, presenting documents for issuance of the

certificate, updating and revising cadastral documents and land database with regard to the entire surface area of land parcel in use, issuing the certificate or sending documents to the communal-level People's Committee to which the application dossier was filed for consultation.

If the additional land surface area is acquired through transfer, inheritance or donation of land use rights prior to 1<sup>st</sup> July 2014 and the documents on land use rights for such additional land surface area are available according to Article 100 of the Law on Land and Article 18 of this Decree, the procedures for initial certification of the additional land surface area according to Article 70 and the procedures for replacement of the certificate, if issued, for the original land parcel plot according to Article 76 of this Decree will apply in case where the certificate of the original land parcel is available. Land registration office shall be responsible for providing confirmation on the form of application for reissuance or replacement of the certificate of land use rights and ownership of house and assets attached to land over the additional land surface area and for sending cadastral information to the relevant tax authority, presenting the certificate, updating and revising cadastral documents and land database with regard to the entire surface area of land parcel in use, issuing the certificate to the applicant or sending documents to the communal-level People's Committee to which the application dossier was filed for consultation.

If the documents on the right to use the additional land area as stipulated in Article 100 of the Law on Land and Article 18 of this Decree are not available, the following regulations will apply:

- (i) If the land user does not violate any the laws on land, the certification of land use rights and ownership of houses and other assets attached to land for the additional land area shall proceed pursuant to Article 20 of this Decree;
- (ii) In the event that the additional land area was gained by the land user's violation of the laws on land prior to 1<sup>st</sup> July 2014, the certification of land use rights and ownership of houses and other assets attached to land for the additional land area shall proceed pursuant to Article 22 of this Decree.
- (iii) In the event that the additional land area was allocated to the land user by an incompetent authority prior to 1<sup>st</sup> July 2014, the certification of land use rights and ownership of houses and other assets attached to land for the additional land area shall proceed pursuant to Article 23 of this Decree.

In accordance with Article 23.6, when a person applies for issuing the certificate of land use right, ownership of house and other assets

attached to land over an undisputed land parcel allocated by an incompetent authority prior to 1<sup>st</sup> July 2004 in line with the planning, whether a house exists on such land parcel upon issuance of the certificate or not, such person shall be eligible for certification and incur financial obligation(s) as per regulations.

### **3. New regulations on the electronic games with prizes for foreigners**

*On 30<sup>th</sup> December 2016, the Government issued Decree No.175/2016/ND-CP, amending and supplementing some articles in Decree No. 86/2013/ND-CP dated 29<sup>th</sup> July 2013, on the business of electronic games with prizes for foreigners, which shall take effect on 15<sup>th</sup> February 2017.*

The new Decree amends and supplements provisions on equipment of electronic games with prizes for foreigners. Specifically, prize-rewarding electronic gaming machines used at the business location shall be brand new, adhere to the technical specifications announced by their manufacturers and certified by independent certifying organization(s) operating in member state(s) of the G7.

The programmed minimum flat rate of payout of a slot machine is 90% (inclusive of the accumulated prize). The payout rate, when changed by the company, shall not be lower than the minimum payout rate regulated; hence, the company shall have the machines re-certified prior to putting them into operation and specify the payout rate in the gaming rules.

### **4. Rescue traffic accidents on expressways**

*On 30<sup>th</sup> December 2016, the Ministry of Health issued Circular No.49/2016/TT-BYT, providing for the organization and operations of rescue of traffic accidents on expressways.*

The new Circular stipulates:

- (a) The network of establishments serving rescue operations on expressways includes emergency stations, which are organized as follows: An emergency station is integrated with any medical facility available on the expressways, including communal health clinics; district health clinics that have functions of diagnosing and treating diseases; 115 emergency centres; and public and private hospitals.
- (b) For every 50 km of expressways must an emergency station be available.

- (c) Subject to the technical scope of competent authorities, medical facilities must organize the timely first aid, rescue, diagnosis, treatment for traffic accidents victims.
- (d) In case where the victims of traffic accidents do not have health insurance cards, medical clinics still must provide first aid, rescue and treatment for the victims. After the first aid, the rescue, the public or private medical clinics can collect the cost of transportation, charges of first aid, and charges of hospital in accordance with the rate of diagnosis and treatment stipulated by competent authorities.

This Circular takes effect from 1<sup>st</sup> March 2017.

## **5. Organization and operation of the Inspectorate of Culture, Sports and Tourism branch**

*On 27<sup>th</sup> December 2016, the Government issued Decree No.173/2016/ND-CP, providing for the organization and operations of the Inspectorate of Culture, Sports and Tourism branch, which shall take effect on 15<sup>th</sup> February 2017.*

In this Decree, the Inspectorate of Culture, Sports and Tourism branch includes: Inspectorate of the Ministry of Culture, Sports and Tourism; Inspectorates of Departments of Culture, Sports and Tourism, Inspectorates of Departments of Culture and Sports, and Inspectorates of Departments of Tourism.

## **6. Subjects and conditions to buy duty-free items**

*On 27<sup>th</sup> December 2016, the Government issued Decree No.167/2016/ND-CP, on duty-free business, which shall take effect on 15<sup>th</sup> February 2017.*

The new Decree provides for subjects and conditions to buy duty-free items, under which incoming passengers may purchase duty-free items at duty-free shops located in restricted areas of international civil airports after they have completed entry procedures; they cannot purchase duty-free items after having left these restricted areas.

## **7. 15-year-old and older persons can open payment accounts**

*On 26<sup>th</sup> December 2016, the State Bank of Vietnam issued Circular No.32/2016/TT-NHNN on the amendment to Circular No.23/2014/TT-NHNN, providing guidelines for the opening and*

***maintenance of current accounts at payment services providers; which shall take effect on 1<sup>st</sup> March 2017.***

The new Circular amends and supplements subjects that are individuals being entitled to open payment accounts at banks and foreign banks' branches. Specifically: Persons from the age of 15 to less than 18 without lack of legal capacity or with limited legal capacity for civil acts (these individuals are not required to have own assets to secure their obligations in opening payment accounts as per the current regulations).

The Circular also extends the scope of persons who are entitled to open payment accounts through guardians to persons with limited cognition or behavior control in accordance with Vietnam laws and regulations.

## **8. Types of insurance of which transactions can be conducted by electronic means**

***On 24<sup>th</sup> December 2016, the Government issued Decree No.166/2016/ND-CP, providing for electronic transactions in the field of social, health and unemployment insurances, which shall take effect from 1<sup>st</sup> March 2017.***

Accordingly, citizens can register to conduct transactions related to social, health and unemployment insurances by electronic means; issuance of social insurance booklet; payment of benefits under social, health and unemployment insurances; assessment and reimbursement of costs of medical examination and treatment covered by health insurance, and exchange of information relating to the implementation of policies on social, health and unemployment insurances.

The Decree stipulates: Any agencies, organizations and individuals that conduct transactions in the field of social, health and unemployment insurances by electronic means must have a stable email address, which has been registered with Vietnam Social Security, have ability to access to/ use the Internet; hold a valid digital certificate granted by a digital signature authentication service provider in accordance with laws and regulations (in case where such a digital certificate is not yet available, he/she may use electronic transaction authentication number granted by Vietnam Social Security).

Agencies, organizations and individuals can submit social security-related accounting source documents in electronic format through the portal of Vietnam Social Security or I-VAN organization 24 hours/day, 7 days/week. The SSAV or I-VAN organization shall send a notice confirming the receipt of social insurance documents in electronic format to the email address of the

agencies, organizations or individuals within 15 minutes as of the receipt of such documents sent by those agencies, organizations or individuals.



## **Other sectors**

### **Banking**

- Decision No. 2545/QD-TTg dated 30<sup>th</sup> December 2016 of the Prime Minister, on approving the Scheme on developing non-cash payments in Vietnam in the period 2016-2020.
- Circular No. 43/2016/TT-NHNN dated 30<sup>th</sup> December 2016 of the State Bank of Vietnam, on consumer lending by finance companies.
- Circular No. 39/2016/TT-NHNN dated 30<sup>th</sup> December 2016 of the State Bank of Vietnam, providing for the provision of loans by credit institutions and foreign banks' branches to customers.
- Circular No. 37/2016/TT-NHNN dated 30<sup>th</sup> December 2016 of the State Bank of Vietnam, providing for the management, operation and usage of national system of inter-bank electronic payments.

### **Taxation**

- Decision No. 149/QD-BTC dated 24<sup>th</sup> January 2017 of the Ministry of Finance, amending and supplementing the List of price tables for calculation of registration fees of automobiles and motorbikes accompanying Circular No.304/2016/TT-BTC dated 15<sup>th</sup> November 2016 of the Ministry of Finance.
- Circular No. 01/2017/TT-BCT dated 24<sup>th</sup> January 2017 of the Ministry of Industry and Trade, providing for the application of importation quota for raw materials cigarettes and poultry eggs originating from country members of Eurasian Economic Union in 2017, 2018, 2019.
- Circular No. 06/2017/TT-BTC dated 20<sup>th</sup> January 2017 of the Ministry of Finance, amending and supplementing Article 34a.1 of Circular No. 156/2013/TT-BTC dated 6<sup>th</sup> November 2013 of the Ministry of Finance, providing guidelines for the implementation of some articles of Law on Tax Administration (as supplemented in Clause 10 of Article 2 of Circular No. 26/2015/TT-BTC).

### **Trade**

- Decision No. 294/QD-UBND dated 16<sup>th</sup> January 2017 of Hanoi People's Committee, announcing amended and supplemented administrative procedures under the settlement authority of Hanoi Department of Industry and Trade.

- Decision No. 1/QD-TCHQ dated 3<sup>rd</sup> January 2017 of the General Department of Customs, announcing the List of decisions of the General Director of General Department of Customs promulgating the processes, rules and regulations, which are no longer valid.

**Labour**

- Decision No. 522/QD-UBND dated 25<sup>th</sup> January 2017 of Hanoi People's Committee, issuing the Code of Conduct of cadres, public officials and servants, and laborers in agencies of Hanoi.
- Decision No. 126/QD-BHXH dated 20<sup>th</sup> January 2017 of Vietnam Social Insurance, on the assignment of duties of General Director and Deputy General Directors of Vietnam Social Insurance.
- Decision No. 102/QD-BHXH dated 12<sup>th</sup> January 2017 of Vietnam Social Security, promulgating the Regulation on issuing, managing, and using badges and uniforms of persons who are assigned to conduct specialized inspections on payments of social insurance, unemployment insurance and health insurance premiums.
- Decision No. 290/QD-UBND dated 19<sup>th</sup> January 2017 of Ho Chi Minh City People's Committee, announcing standardized administrative procedures within the scope of management function of Ho Chi Minh City Department of Labors, War Invalids and Social Affairs.

**Education**

- Decision No. 327/QD-BGDDT dated 25<sup>th</sup> January 2017 of the Ministry of Education and Training, issuing the Plan of developing the social work profession in the education sector in the period 2017-2020.
- Decision No. 01/2017/QD-TTg dated 17<sup>th</sup> January 2017 of the Prime Minister, promulgating the Index of Education and Training of the national education system.
- Decision No. 59/2016/QD-TTg dated 31<sup>st</sup> December 2016 of the Prime Minister, issuing the List of State secrets at Top secret level in the Education and training sector.
- Circular No. 05/2017/TT-BGDDT dated 25<sup>th</sup> January 2017 of the Ministry of Education and Training, promulgating the Regulation on enrolment of official students for universities and colleges specialized in educating official teachers.

- Circular No. 04/2017/TT-BGDDT dated 25<sup>th</sup> January 2017 of the Ministry of Education and Training, promulgating the Regulation on national high school graduation examination and the process of granting high school diplomas.
- Circular No. 27/2016/TT-BGDDT dated 30<sup>th</sup> December 2016 of the Ministry of Education and Training, providing for preservation term of specialized documents of the Education sector.

### Health

- Decision No. 55/QD-BYT dated 9<sup>th</sup> January 2017 of the Ministry of Health, promulgating the Process of executing an inspection on the responsibility to handle complaints in the Health sector.
- Decision No. 2560/QD-TTg dated 31<sup>st</sup> December 2016 of the Prime Minister, approving the National Strategy on prevention of and fighting against blindness until 2020, with orientation to 2030.

### Culture - Sports

- Decree No. 06/2017/ND-CP dated 24<sup>th</sup> January 2017, on the business of betting on horse racing, greyhound racing and international soccer.
- Decree No. 03/2017/ND-CP dated 16<sup>th</sup> January 2017, on casino business.

### Transport

- Decree No. 05/2017/ND-CP dated 16<sup>th</sup> January 2017 of the Prime Minister, on the settlement of assets sunken in inland waterways routes, water area of sea ports and sea water areas of Vietnam.
- Decision No. 228/QD-BGTVT dated 23<sup>rd</sup> January 2017 of the Ministry of Transport, promulgating a plan to implement Decision No.795/QD-TTg dated 11<sup>th</sup> May 2016 of the Prime Minister approving plans to implement Annexes II, IV, V and VI of International Convention for the Prevention of Pollution from Ships.
- Decision No. 05/QD-BGTVT dated 3<sup>rd</sup> January 2017 of the Ministry of Transport, announcing a list of legal documents on transport that are no longer valid in the last 6 months of 2016.
- Circular No. 04/2017/TT-BGTVT dated 20<sup>th</sup> January 2017 of the Ministry of Transport, amending and supplementing some articles of Circular

No.47/2015/TT-BGTVT dated 14<sup>th</sup> September 2015 of the Ministry of Transport, providing for the scope and responsibility of ship crew members, ship drivers and minimum safe staffing of inland waterway vessels.

- Circular No. 03/2017/TT-BGTVT dated 20<sup>th</sup> January 2017 of the Ministry of Transport, providing for the contents and schedules of training ship crew members and ship drivers of inland waterway vessels.
- Circular No. 02/2017/TT-BGTVT dated 20<sup>th</sup> January 2017 of the Ministry of Transport, amending and supplementing some articles of Circular No.56/2014/TT-BGTVT dated 24<sup>th</sup> October 2014 of the Ministry of Transport, providing for the examination, issuance, re-issuance, and change of Certificates of Professional Ability, and Professional Certificates of ship crew members and ship drivers of inland waterway vessels, also known as ship crew members of inland waterway vessels.
- Circular No. 01/2017/TT-BGTVT dated 20<sup>th</sup> January 2017 of the Ministry of Transport, promulgating the National technical regulations on systems of specialized classroom, examination rooms; practice workshops; areas for practice of driving and operating machines of training centres for ship crew members and drivers of inland waterway vessels.
- Circular No. 49/2016/TT-BGTVT dated 30<sup>th</sup> December 2016 of the Ministry of Transport, on the construction, organization and operation of toll plazas.

### **Construction - Land**

- Decision No. 243/QD-UBND dated 12<sup>th</sup> January 2017 of Hanoi People's Committee, announcing the price bracket for service fees in condominium buildings in the area of Hanoi.
- Decision No. 01/2017/QD-UBND dated 3<sup>rd</sup> January 2017 of Hanoi People's Committee, promulgating the coefficient K to adjust land price of separate old houses owned by the State with high profitability, which are located on road side for sale, and issuing Certificates of land use rights, ownership of house and other assets attached to land in the area of Hanoi.
- Circular No. 31/2016/TT-BXD dated 30<sup>th</sup> December 2016 of the Ministry of Construction, providing for the classification and recognition of class of condominium buildings.
- Circular No. 30/2016/TT-BXD dated 30<sup>th</sup> December 2016 of the Ministry of

Construction, providing guidelines for contracts on design, technological equipment supply, and construction of building works.

**Science - Technology**

- Decision No. 68/QD-TTg dated 18<sup>th</sup> January 2017 of the Prime Minister, approving the Program on development of supporting industries for the period from 2016 to 2025.
- Decision No. 60/QD-TTg dated 16<sup>th</sup> January 2017 of the Prime Minister, approving the Planning for development of Vietnam gas industry until 2025, with orientation to 2035.
- Decision No. 4237/QD-BKHCN dated 30<sup>th</sup> December 2016 of the Ministry of Science and Technology, approving a Roadmap of providing online public services in the Ministry of Science and Technology in 2017, with orientation to 2020.
- Circular No. 348/2016/TT-BTC dated 30<sup>th</sup> December 2016 of the Ministry of Finance, providing for the financial management to implement the “Program on support to the application and transfer of scientific and technological progress to promote socio-economic development in the rural, mountainous, or ethnic minorities areas in the period 2016-2025”.

**Information - Communications**

- Decision No. 87/QD-BTTTT dated 24<sup>th</sup> January 2017 of the Ministry of Information and Communications, promulgating the list of legal documents that are wholly or partly no longer valid in the fields under the state management of the Ministry of Information and Communications in 2016.
- Decision No. 02/2017/QD-TTg dated 17<sup>th</sup> January 2017 of the Prime Minister, amending and supplementing the National planning for radio frequency spectra accompanying Decision No. 71/2013/QD-TTg dated 21<sup>st</sup> November 2013 of the Prime Minister.

**Administration - Judiciary**

- Resolution No. 02/2017/NQ-HDTP dated 13<sup>th</sup> January 2017 of the Judges’ Council of Supreme People’s Court, promulgating some templates in

administrative proceedings.

- Resolution No. 01/2017/NQ-HDTP dated 13<sup>th</sup> January 2017 of the Judges' Council of Supreme People's Court, promulgating some templates in civil proceedings.
- Resolution No. 326/2016/UBTVQH14 dated 30<sup>th</sup> December 2016 of the Standing Committee of National Assembly, providing for the collection levels of; exemption from; reduction, collection, payment, management and usage of court charges and fees.
- Decree No. 07/2017/ND-CP dated 25<sup>th</sup> January 2017, on the process of and procedures for pilot implementation of granting the electronic visa to foreigners entering Vietnam.
- Decision No. 522/QD-UBND dated 25<sup>th</sup> January 2017 of Hanoi People's Committee, promulgating the Code of Conducts of cadres, public officials and servants, and laborers in agencies of Hanoi.
- Decision No. 01/2017/TT-BTP dated 23<sup>rd</sup> January 2017 of the Ministry of Justice, on the management of evidence warehouses and assets temporarily held in enforcement of civil judgements.
- Decision No. 86/QD-BTP dated 20<sup>th</sup> January 2017 of the Ministry of Justice, announcing the list of legal documents that are wholly or partly no longer valid in the fields under the State management of the Ministry of Justice in 2016.
- Decision No. 02/2017/QD-UBND dated 10<sup>th</sup> January 2017 of Ho Chi Minh City People's Committee, promulgating the Regulation on examining, handling, reviewing and systemizing legal documents, and organization and management of collaborators of examining, reviewing and systemizing legal documents in Ho Chi Minh City.
- Decision No. 01/2017/QD-UBND dated 6<sup>th</sup> January 2017 of Ho Chi Minh City, on repealing documents.
- Circular No. 05/2017/TT-BTC dated 16<sup>th</sup> January 2017 of the Ministry of Finance, providing guidelines for the management, advance payment and return of expenses for coercive enforcement of decisions on dealing with administrative violations.
- Circular No. 13/2016/TT-BTP dated 30<sup>th</sup> December 2016 of the Ministry of Justice, on process of providing, receiving and updating information, and exploiting and using the National database on dealing with administrative violations.

**Agriculture - Forestry - Fishery**

- Resolution No. 02/NQ-CP dated 6<sup>th</sup> January 2017 of the Government, on the execution of Memorandum of Understanding between the Socialist Republic of Vietnam and the Republic of Indonesia on cooperation in Sea and Fishery.
- Decree No. 02/2017/ND-CP dated 9<sup>th</sup> January 2017, on the mechanism and policies supporting agricultural production to restore the production in areas damaged due to natural disasters and epidemics.
- Decision No. 03/QD-BNN-BVTV dated 3<sup>rd</sup> January 2017 of the Ministry of Agriculture and Rural Development, on removing plant protection products, which contain Carbendazim, Benomyl or Thiophanate-methyl, out of the list of plant protection products permitted for being used in Vietnam.
- Circular No. 01/2017/TT-BNNPTNT dated 16<sup>th</sup> January 2017 of the Ministry of Agriculture and Rural Development, supplementing the list of chemicals and antibiotics prohibited from being imported, manufactured, traded and used in foods for cattle or poultry in Vietnam.

**Miscellaneous**

- Decision No. 87/QD-UBCK dated 25<sup>th</sup> January 2017, of the State Securities Commission, promulgating the Regulation guiding the securities deposit transactions.
- Decision No. 88/QD-TTg dated 20<sup>th</sup> January 2017 of the Prime Minister, approving the Scheme on improvement of management capacity and efficient enforcement of laws on protection of copyright and related rights until 2020, with orientation to 2025.
- Decision No. 54/2016/QD-UBND dated 31<sup>st</sup> December 2016 of Hanoi People's Committee, promulgating the service charges of collecting and transporting household wastes; and environmental hygiene service charges applicable to normal industrial solid wastes in the area of Hanoi.

## Contact details

### Hanoi Office

Mr. Pham Nghiem Xuan Bac

*Managing Partner*

Mr. Luu Tien Ngoc

*Director, Business Development*

Ms. Le Quynh Anh

*Executive Partner, Legal Practice*

Ms. Nguyen Nguyet Dzung

*Partner, Intellectual Property Practice*

Unit 308-310, 3<sup>rd</sup> Floor, Hanoi Towers

49 Hai Ba Trung, Hanoi, Vietnam

Tel: 84-4-3934 0629/ 3826 4797 Fax: 84-4-3934 0631

E-mail: [vision@vision-associates.com](mailto:vision@vision-associates.com)

### Ho Chi Minh City Office

Mr. Luu Tien Ngoc

*Director, Business Development*

Mrs. Nguyen Thi Van

*Head of Ho Chi Minh City Office*

Unit 905, 9<sup>th</sup> Floor, CitiLight Tower

45 Vo Thi Sau, District 1, Ho Chi Minh City, Vietnam

Tel: 84-8-3823 6495 Fax: 84-8-3823 6496

E-mail: [hcmvision@vision-associates.com](mailto:hcmvision@vision-associates.com)

[www.vision-associates.com](http://www.vision-associates.com)