

CHAPTER 1

GENERAL PROVISIONS

Article 1.

This Law has the objective to establish the rules, conditions, procedures, and proceedings governing the insolvency in the Kingdom of Cambodia.

Article 2.

This Law has the objective to provide collective, orderly and fair satisfaction of creditors' claims out of a debtor's properties and, where the parties in interest deem appropriate, the rehabilitation of the business of the debtor.

Article 3.

This Law governs on all businessmen and legal entities that own assets in the Kingdom of Cambodia.

Article 4.

The technical terms used in this Law, shall have the following meanings:

- (1) "Insolvency" refers to the situation when businessman and legal entity cannot repay debt and is pronounced insolvent by the court.
- (2) "Claim" means any right to receive payment from the debtor or from assets of the debtor which arose before the opening of insolvency proceedings, regardless of whether such claim is conditional, unliquidated or contingent, unless expressly qualified as an "administrative claim".
- (3) "Company" refers to a private limited company and public limited company formed under the Law of Commercial Enterprises.
- (4) "Costs of the proceedings" and "costs of the resumed proceedings" mean the court's fees and costs and the remuneration, fees and expenses of the administrator.
- (5) "Court" means a court which, under the laws of the Kingdom of Cambodia, has jurisdiction over insolvency proceedings opened under this Law.
- (6) "Partnership" means a general or limited partnership formed under the Law of Commercial Enterprises.
- (7) "Related person" means:
 - (a) in the case of a debtor which is not a natural person, any shareholder, director, partner or manager of the debtor;
 - (b) in the case of a debtor which is not a natural person, the debtor's spouse or, the spouse of any shareholder, director, partner or manager of the debtor;

- (c) any ascendant or descendant of the debtor or of any person described in paragraphs (a) and (b);
 - (d) the spouse of any person described in paragraph (c);
 - (e) any child, or the spouse of any child, of the debtor or of any person described in paragraphs (a) to (d);
 - (f) any person described in paragraphs (a) to (e) who holds more than five percent (5%) of the shares, or is a director or a manager;
 - (g) any partnership in which a person described in paragraphs (a) to (e) is a partner or a manager;
 - (h) any legal person formed under the laws of a foreign country in which a person described in paragraphs (a) to (e) holds more than five percent (5%) of the capital, or is a director, a manager or a partner;
 - (i) in the case of a debtor who is a natural person, any person living in the debtor's household;
 - (j) any natural or legal person who, by reason of its professional or commercial relationship with the debtor, has access to confidential information about the financial or commercial affairs of the debtor; or
 - (k) any creditor whose claim against the debtor exceeds five percent (5%) of the total value of all creditors' claims against the debtor.
- (8) "Creditor" means any natural or legal person who owns a claim against the debtor or assets of the debtor.
 - (9) "Secured Creditor" means creditor who owns a claim against the debtor's assets with secured obligations. Such creditor has priority to receive payment over other creditors.
 - (10) "Debtor" means any natural or legal person who is insolvent.
 - (11) "Payment Settlement" means, in the case of a creditor incidentally becomes debtor, both parties can settle their respective debt obligations.
 - (12) "Creditor Committee" means committee appointed by creditors among all creditors in order to fulfill the roles representing the interest of all creditors.

Article 5.

- (1) An appeal shall not operate as a stay on the execution of the court's ruling.
- (2) Unless this Law contains special provisions, the provisions of the Code of Civil Procedure shall apply *mutatis mutandis*.

CHAPTER 2
OPENING OF INSOLVENCY PROCEEDINGS –
SUBJECTS, GROUNDS AND PETITION

Article 6.

- (1) Insolvency proceedings may be opened under this Law against a debtor who is:
 - (a) a partnership or legal entity formed under the laws of the Kingdom of Cambodia;
 - (b) a natural person who is domiciled and own assets in the Kingdom of Cambodia;
 - (c) a partnership or legal person formed under the laws of a foreign country which owns assets situated in the Kingdom of Cambodia; and
 - (d) a natural person who is domiciled outside the Kingdom of Cambodia and who owns assets situated in the Kingdom of Cambodia.
- (2) Insolvency proceedings opened under this Law against the persons or partnerships set out in paragraphs (1)(c) and (1)(d) of this Article shall apply only to the assets of such persons or partnerships which are situated in the Kingdom of Cambodia and having its registered address in the Kingdom of Cambodia. The following shall be considered assets situated in the Kingdom of Cambodia:
 - (a) tangible assets located within the territory of the Kingdom of Cambodia;
 - (b) assets and rights for which the ownership of or entitlement to must be entered in a public register under the authority of the Royal Government of Cambodia; and
- (3) Insolvency proceedings shall not be opened under this Law against any debtor or creditor which is a covered entity under the Law on Banking and Financial Institutions, Law on Insurance and Law on Non-Government Securities, unless provided for in those laws.

Article 7.

- (1) In the case of a petition by the debtor, a creditor or creditors, the failure of a debtor to meet one or more valid and mature obligations, other than obligations which give rise to claims of the kind mentioned in Article 36(3) to Article 36(9), to pay an aggregate amount in excess of Five Million Riels (Riels 5,000,000) shall be a ground for the opening of insolvency proceedings with respect to the debtor.
- (2) The Minister of Justice may change the minimum amount of obligation required for the opening of insolvency proceedings set out in the first paragraph.

Article 8.

- (1) A petition to open insolvency proceedings may be filed by a debtor, one or more creditors, the Director of Companies or the public prosecutor.

- (2) A petition to open insolvency proceedings shall be made in writing and shall be signed by the petitioner. The petition shall contain the following information:
 - (a) the name and address of the debtor;
 - (b) the name and address of the petitioner;
 - (c) the ground or grounds under Article 7 on which the petition is based;
 - (d) a description of the circumstances showing the existence of the ground or grounds for the petition;
 - (e) evidence on which the petition is based, including an attachment of any documents which could substantiate the petition; and
 - (f) in the case of a petition by the debtor, a list of all known creditors of the debtor, indicating the names of the creditors, their addresses and the amounts of their respective claims.
- (3) The examination of petition, payment of court fee, secured petition shall comply with the provisions of the Code of Civil Procedure.

Article 9.

- (1) A debtor that has ceased to meet its mature and valid obligations to pay as mentioned in Article 7 shall, within thirty (30) days of such cessation, petition for the opening of insolvency proceedings against itself.
- (2) In the case of a debtor who is a natural person, it shall be his duty to ensure that a petition is filed pursuant to paragraph (1). In the case of a debtor which is a partnership or a company, it shall be the duty of every individual director, partner or manager, as the case may be, to ensure that a petition is filed pursuant to paragraph (1).
- (3) Any person who, intentionally or with gross negligence, fails to discharge the duty under paragraph (2) shall be personally liable to the debtor's creditor or creditors for damages that result directly from such failure. If the duty under paragraph (2) falls on more than one person, all such persons, acting intentionally or with gross negligence, shall be jointly and severally liable for damages that result directly from the failure to observe the duty. Should insolvency proceedings be commenced against the debtor, such damages shall be included in the estate and the administrator shall act on behalf of all creditors in their recovery.

Article 10.

A creditor's petition, or a petition by director of companies or public prosecutor, shall be served on the debtor no later than seven (7) days after the petition has been filed with the court.

Article 11.

- (1) From the time of the filing of a petition to the court's issuance of its ruling whether to open insolvency proceedings, the court shall, upon the written application of the debtor,

any creditor, the director of companies or the public prosecutor, issue a ruling to appoint an administrator.

- (2) The administrator shall take all necessary or appropriate measures to protect the interest of creditors. In particular, he may apply, if necessary and unless the court so rules on its own motion, to the court for injunctive relief operating a freezing of assets or a stay of action by secured or unsecured creditors against the debtor or assets of the estate.
- (3) Any rulings of the court made under paragraphs (1) and (2) shall be notified to the concerned stakeholders and publicly published in the daily newspapers.

CHAPTER 3

DECISION ON THE PETITION TO OPEN INSOLVENCY PROCEEDINGS

Article 12.

- (1) A petition by the debtor shall be heard by the court as soon as possible after it is filed and in any event no later than fifteen (15) days after the petition is filed.
- (2) A petition by a creditor, the director of companies or the public prosecutor shall be heard by the court no later than thirty (30) days after the petition has been served on the debtor.
- (3) The debtor, any creditor, the director of companies and the public prosecutor shall be entitled to participate in the hearing.

Article 13.

- (1) If the court is satisfied, after the hearing of the petition, of the existence of the ground or grounds on which the petition is based, the court shall issue a written ruling:
 - (a) opening insolvency proceedings against the debtor;
 - (b) appointing an administrator under Article 11 of this law;
 - (c) announcing a date for the opening creditors' meeting, which shall be on a day no earlier than thirty (30) days but no later than sixty (60) days after the opening of the insolvency proceedings; and
 - (d) specifying the deadline for the filing of proofs of claims, which shall be seven (7) days before the date of the opening creditors' meeting.
- (2) In determining the date of the opening creditors' meeting, the court shall take into account whether the debtor has submitted a proposed plan of compromise which the debtor represents that it has or does not have the support of creditors.
- (3) If the court is satisfied, after the hearing of the petition, that the ground or grounds on which the petition is based do not exist or, in the case of a petition by the debtor or by a creditor acting in concert with the debtor, that the debtor's failure to meet his obligations

is frivolous or was made in bad faith, the court shall issue a written ruling dismissing the petition.

- (4) The court's ruling to open insolvency proceedings or to dismiss the petition shall be issued no later than fourteen (14) days after the hearing of the petition.
- (5) The debtor or any creditor may appeal the court's ruling within seven (7) days after the issuance of the ruling.

Article 14.

- (1) The court may, when it issues the ruling to open insolvency proceedings, or at any time thereafter, rule that the liquidation of the debtor's business be commenced forthwith on the ground that the rehabilitation of the debtor's business is not feasible and that it is unlikely that a plan of compromise will be approved.
- (2) The court may make a ruling under paragraph (a) either on its own motion or upon the application of the debtor, the administrator, any creditor, the director of companies or the public prosecutor.

Article 15.

The insolvency proceedings shall be considered opened on the date of the court ruling opening the insolvency proceedings.

Article 16.

- (1) Insolvency proceedings shall not be opened and the petition shall be dismissed if the debtor's assets will likely be insufficient to cover the costs of the proceedings, unless a sufficient amount of money is advanced by a related person to cover such costs.
- (2) Anyone advancing an amount of money under paragraph (1) may, within five (5) years from the time the amount is advanced, claim reimbursement of the advanced amount from any person who failed to discharge his duty to petition for the opening of insolvency proceedings against the debtor at the time the petition was filed. In the event of a dispute as to whether such person failed to discharge his duty, such person shall bear the burden of proving that he did not fail to discharge his duty.

Article 17.

- (1) When dismissing a petition for lack of grounds, the court shall also issue a ruling requiring the petitioner to reimburse the debtor, or the creditors, as the case may be, for all reasonable legal costs incurred by such party or parties in attending to the petition.
- (2) If the court finds that the petition was filed frivolously, maliciously or with intent to do wrongful harm to the debtor or creditors, the court may further rule that the petitioner be held liable to such party or parties for all damages incurred by the party or parties as a result of the petition.

Article 18.

- (1) A court ruling opening insolvency proceedings shall be publicly published in daily newspapers and shall also immediately be notified to filling offices and public registries governing security interests.
- (2) No later than seven (7) days after the opening of the insolvency proceedings, the administrator shall publish notices, including by placing advertisements in at least two major newspapers in the Kingdom of Cambodia, announcing the following:
 - (a) that insolvency proceedings have been opened against the debtor;
 - (b) the deadline for the submission of written proofs of claims and the address to which all written proofs of claims should be sent; and
 - (c) the date, time and place for the opening creditors' meeting.
- (3) No later than seven (7) days after the administrator receives the statement of the debtor filed pursuant to Article 29, the administrator shall notify in writing all creditors listed in the statement of the matters set out in paragraphs (2)(a) to (2)(c).

CHAPTER 4

EFFECTS OF THE OPENING OF INSOLVENCY PROCEEDINGS

PART A – GENERAL EFFECTS

Article 19.

- (1) After the court ruling opening insolvency proceedings, and until the termination of the proceedings, no action, proceedings or execution process or any other action of any kind by or on behalf of a creditor shall be commenced or continued against the debtor or assets of the estate.
- (2) The administrator may, however, whenever it is in the best interest of the estate, allow a secured creditor in writing to foreclose his mortgage, repossess and sell an encumbered asset (collateral), or in any other way avail himself of his security right and make himself paid by individual action.
- (3) In the case of insolvency proceedings opened against a debtor which is a general partnership, the stay of action in paragraph (1) shall also apply to any action, proceedings or execution process for debt of the debtor and against the partner's assets respectively.

In the case of insolvency proceedings opened against a debtor which is a limited partnership, the stay of action in paragraph (1) shall also apply to any action, proceedings or execution process for debt of the debtor and against the general partner's assets respectively.

Only the administrator may claim a partner's personal liability for the debtor's debts during such insolvency proceedings.

- (4) The stay of action under paragraph (1) shall not apply to administrative claims pertaining to the remuneration, fees and expenses of the administrator and other administrative claims incurred by the administrator.

Article 20.

- (1) The opening of the insolvency proceedings shall create the estate.
- (2) The estate shall comprise all assets, rights and claims of any kind in which the debtor has an ownership interest or to which the debtor is otherwise entitled on the date of opening of the insolvency proceedings or after that date.
- (3) In the case of a debtor who is a natural person, the following shall not be included in the estate:
- (a) the primary place of residence of the debtor, the market value of which shall not exceed Twenty Million Riels (Riels 20,000,000);
 - (b) any other asset, right or claim which is exempt from execution against the debtor under the Code of Civil Procedure.

Article 21.

The management and power over all debtor's assets shall vest in the administrator.

Article 22.

The debtor shall cooperate fully with the administrator and shall provide the administrator with all necessary information pertaining to the business of the debtor.

Article 23.

- (1) In order to discharge his duties, a administrator shall, *inter alia*, have the power to:
- (a) represent the debtor and manage the debtor's business for the purposes of the insolvency proceedings;
 - (b) receive the debtor's mail and any electronic communications addressed to the debtor with the exception of mail and communications which are manifestly of a private nature;
 - (c) carry on the business of the debtor, but only to the extent necessary to fulfill the objectives of the insolvency proceedings;
 - (d) receive all assets of the estate, including the books and records of the debtor;
 - (e) collect and include in the estate any amounts remaining unpaid with respect to the issued share capital of a debtor or contributions to the debtor by partners;
 - (f) use and deal with the assets of the estate, including by selling any such asset free of any security rights, encumbrances and liens;

- (g) represent the debtor in any court proceedings in which the debtor is a party;
 - (h) prepare the list of claims;
 - (i) permit a creditor to sell an asset which is the object of a security right held by the creditor for a claim, and to apply the relevant proceeds of the sale in satisfaction of the creditor's claim;
 - (j) separately maintain assets which are burdensome for the estate;
 - (k) apply to the court to examine any person on questions pertaining to the debtor's business;
 - (l) terminate, cancel or avoid, in accordance with this and other laws, and including by application to the court, any transaction, contract, agreement or transfer to which the debtor is a party;
 - (m) convene and organize the meetings of creditors as provided for in this Law;
 - (n) prepare and propose a plan of compromise, where appropriate;
 - (o) employ the services of agents and professionals to assist in the performance of his duties; and
 - (p) do any and all other things necessary to the performance of his duties and which are consistent with the objectives of the insolvency proceedings.
- (2) The Minister of Justice may issue regulations to supplement the provisions in paragraph (1) regarding the administrator's powers.

Article 24.

- (1) During the period up to the opening creditors' meeting, the administrator shall:
- (a) continue the debtor's business, whenever this appears to be feasible and not manifestly uneconomic; and
 - (b) explore the financial and economic situation of the debtor and its prospects of rehabilitation and prepare the administrator's report referred to in Article 52.
- (2) In discharging his tasks, the administrator shall make the fullest possible use of experience, information and the management of the debtor, as the circumstances permit.

Article 25.

- (1) The administrator shall obtain the consent of the creditors at a creditors' meeting if he intends to:
- (a) sell any real property by private treaty;

- (b) sell or transfer any part of the estate to a related person by any means; or
 - (c) to carry out any transaction that would irreversibly preclude the proposal, approval or implementation of a plan of compromise.
- (2) Any transaction undertaken in violation of paragraph (1) (a) and (b) shall be deemed a violation of the administrator's duties and expose the latter to personal liability for any damage incurred by the estate or any party in the proceedings.

Article 26.

- (1) No later than thirty (30) days after the opening of insolvency proceedings, the administrator shall determine in good faith the value of any security right held by a creditor in an encumbered asset of the estate. The administrator's valuation shall, unless challenged by the debtor or any creditor, be the valid determination of the amount of the secured portion of that creditor's claim.
- (2) The portion of the creditor's claim which exceeds the value determined under paragraph (a) or which remains unsatisfied after the application of the proceeds from a sale of the asset, as the case may be, shall be eligible for satisfaction in the insolvency proceedings as an unsecured claim. This paragraph shall not apply if the security right was granted by the debtor to secure a debt of a person other than the debtor.
- (3) A valuation under paragraph (1) shall not be necessary if, before the expiration of the stated thirty (30) days:
 - (a) the court has ordered the commencement of the liquidation of the debtor's business; or
 - (b) the administrator has sold or has permitted the relevant creditor to sell the encumbered asset or otherwise to exercise his security right and to apply the proceeds of the sale in satisfaction of the creditor's claim.

Article 27.

- (1) The administrator shall pay, to a creditor holding a security right in an asset of the estate, on a regular basis all interest accruing at the contractual rate on the secured portion of the claim. If the security right was granted to secure a debt of a person other than the debtor, interest accruing on the secured portion of the claim shall, however, be paid only when the third party owing payment to the creditor is in default.
- (2) In the absence of a contractual rate of interest, interest shall be calculated at the generally prevailing market rate.
- (3) Interest pursuant to paragraph (1), which shall be paid at least once every month, shall be applicable only upon the expiration of thirty (30) days after the opening of insolvency proceedings and for so long as the asset is not sold by the administrator and the relevant proceeds of the sale applied in satisfaction of the creditor's claim.

Article 28.

- (1) The court may decide whether and to what extent a debtor who is a natural person and the debtor's family should be provided with current maintenance from the estate.
- (2) Until the court's decision under paragraph (1), the administrator may, with the consent of any creditors' committee that has been set up, provide necessary maintenance from the estate to a debtor who is a natural person and to the debtor's family to support their living.

Article 29.

- (1) No later than fourteen (14) days after the opening of insolvency proceedings, the debtor shall file with the court and provide to the administrator a written statement setting out full details of:
 - (a) the estate; and
 - (b) all creditors known to the debtor, including the creditors' names, addresses and a brief description of the debt owed to each creditor.
- (2) The debtor shall submit to examination regarding its assets and business affairs as and when required by the administrator or the court.

PART B – SAFEGUARDING AND ENHANCEMENT OF THE ESTATE

Article 30.

- (1) If, at the time of the opening of insolvency proceedings, a contract between the debtor and a counter party has not been fully performed by the debtor and the counter party, the administrator may elect to continue the contract in accordance with the terms of this article.
- (2) A administrator who has decided to continue a contract must declare this decision in writing to the counter party within thirty (30) days of the opening of insolvency proceedings. In the absence of such a written declaration from the administrator, the contract shall be deemed terminated and the counter party may file a claim for damages as a creditor in the insolvency proceedings. The court may, upon a written application of the administrator, extend the period within which the administrator must declare his decision whether to continue the contract. Each extension shall be for no more than fourteen (14) days.
- (3) The counter party to a contract may, at any time, also make a written request to the administrator that the administrator declare himself bound by the contract. In the absence of a written declaration from the administrator to be bound by the contract within seven (7) days of the counter party's request, the contract is deemed terminated and the counter party to the contract may file a claim for damages as a creditor in the insolvency proceedings. The court may, upon a written application of the administrator, extend the period within which the administrator must declare his decision whether to be bound by the contract. Each extension shall be for no more than fourteen (14) days.

- (4) In the case of individual contracts for the sale or purchase of securities, rights or other similar goods in a market or stock exchange which are part of a larger framework agreement for the consolidated settlement of the individual contracts, the administrator's election to continue with contracts shall be made with respect to all the individual contracts under the framework agreement as a whole. The administrator may not elect to continue with only some of the individual contracts under the framework agreement.
- (5) The administrator's election to continue a contract which requires regular payments to the counter party shall not bind the administrator to effect payments that were not made prior to the opening of insolvency proceedings.
- (6) All claims arising from a contract which the administrator has elected to continue shall be treated as administrative claims incurred by the administrator in the course of the insolvency proceedings and accorded the applicable priority under Article 57.

Article 31.

- (1) A utility may not terminate, alter or discontinue service to the administrator or the debtor solely on the basis of the opening of insolvency proceedings against the debtor or that a debt owed by the debtor to such utility for service rendered before the opening of insolvency proceedings was not paid when due.
- (2) Without prejudice to the right of the administrator to elect continuation of a pending contract according to Article 30, a utility may refuse to conclude a new contract for service to a debtor if the administrator does not, within thirty (30) days after the opening of insolvency proceedings, furnish adequate assurance of payment, in the form of a deposit or other security, for service under an eventual new contract after the opening of insolvency proceedings.

Article 32.

The court may, upon a complaint by the administrator and upon a hearing of the other party to a certain transaction, adjudicate by judgment the following transactions to be void and pronounce the appropriate effects of such declaration under Article 33:

- (1) a transaction entered into by the debtor with the intent to defraud creditors by placing the debtor's assets beyond the reach of creditors who may seek to recover claims owed by the debtor;
- (2) a transaction effected within three (3) years prior to the opening of insolvency proceedings for which no consideration was received by the debtor in return, except for ordinary transactions in favor of the debtor's spouse or relatives of direct descent or ascent;
- (3) a transaction effected within one (1) year prior to the opening of insolvency proceedings in which the value of the debtor's obligation considerably exceeded the value of the other party's obligation;
- (4) a transaction effected within one (1) year prior to the opening of insolvency proceedings in which the debtor discharged a debt which was not due, or provided new or additional security for a debt, and in which the other party to the transaction is a related person;

- (5) a transaction effected within six (6) months prior to the opening of insolvency proceedings in which the debtor discharged a debt which was not due, or provided new or additional security for a debt; and
- (6) a transaction effected within one (1) year prior to the opening of insolvency proceedings in which the debtor discharged a debt which was not due, or provided new security, or granted a security right, for a debt of the kind mentioned in Article 36 (5).

Article 33.

- (1) Where a transaction or transfer is avoided under Article 32, any money paid, property transferred or proceeds from the sale of property transferred shall be recovered and included in the estate.
- (2) A person from whom money or property was recovered as a result of an avoided transaction shall be entitled to restitution for any consideration given by such person for the transaction. Restitution shall be effected from the assets of the estate to the extent that the consideration given continues to exist in a distinct form among the assets of the estate. Such person shall also be eligible to file a claim as a creditor in the insolvency proceedings.

Article 34.

- (1) If, by force of law or on the basis of a contract, a creditor would have had a right, on the date of the opening of the insolvency proceedings, to set-off his claim in the proceedings against an obligation owed to the debtor, such right of set-off shall not be affected by the opening of the insolvency proceedings.
- (2) Set-off by a creditor against a counter claim of the estate shall be void if:
 - (a) the creditor only became a debtor of the estate after the opening of insolvency proceedings;
 - (b) the creditor acquired his claim from another creditor after the opening of the insolvency proceedings;
 - (c) the creditor acquired the right of set-off by means of a transaction which is subject to contest or avoidance under this or other laws; or
 - (d) the creditor's claim is of the kind mentioned in Article 36.

PART C – CLAIMS

Article 35.

- (1) The estate shall be used to satisfy all admissible claims against the debtor and administrative claims. Administrative claims shall include the remuneration, fees and expenses of the administrator in the course of the proceedings.

- (2) Claims that are not mature on the date of liquidation shall be deemed to have matured upon the date of liquidation.
- (3) Claims that are subject to a resolutive condition shall be treated as unconditional claims as long as the condition has not been satisfied.

Article 36.

The following claims shall not be admissible in insolvency proceedings:

- (1) interest accruing on claims from the date of the opening of the insolvency proceedings;
- (2) costs incurred by creditors by reason of their participation in the insolvency proceedings;
- (3) fines, administrative penalties and other incidental legal consequences of a criminal or administrative offence which obliges the debtor to pay;
- (4) claims for which no consideration was owed by the debtor in return;
- (5) claims for the repayment of a loan made to the debtor by a person holding directly or indirectly not less than ten percent (10%) of the equity capital of the debtor, or recourse claims against the debtor for a loan guaranteed or secured, or caused to be guaranteed or secured, by such a person. If the debtor is a partnership, the claims in this paragraph shall apply only when all general partners of the debtor are companies;
- (6) claims for recourse which co-debtors or guarantors may have against the debtor if they satisfy a creditor's claim;
- (7) claims for which the proofs of claim were filed after the deadline established for the filing of proofs of claims;
- (8) subordination of claims for which ineffective in insolvency proceedings has been agreed between the creditor and the debtor; and
- (9) interest on claims of the aforementioned kind.

Article 37.

Non-liquidated claims shall be satisfied at the value estimated in Riels on the date of the opening of the insolvency proceedings. Claims denominated in foreign currency or in some other unit of exchange shall be converted into Riels using the National Bank of Cambodia determined exchange rate prevailing on the date of the opening of the insolvency proceedings.

Article 38.

- (1) All proofs of claims shall be submitted in writing by creditors to the administrator by the determined deadline.
- (2) Each proof of claim shall contain the following information:
 - (a) the legal nature and cause of the claim;

- (b) the time when the claim arose;
 - (c) the amount of the claim;
 - (d) any priority that may attach to the claim under Article 57;
 - (e) the nature and rank of any alleged security in any asset of the debtor and details of the asset in which the alleged security exists; and
 - (f) copies of documents and other evidence in support of the above, if any.
- (3) The administrator shall assist creditors in observing the required formalities.

Article 39.

- (1) The administrator shall prepare a claims list setting out the details of all claims submitted by creditors in accordance with Article 38. The claims list shall be filed with the court no later than five (5) days before the date of the opening creditors' meeting. The claims list shall be open for inspection by any person free of charge.
- (2) The claims list shall contain in a condensed and standardized fashion information in accordance with Article 38(2)(a) to Article 38(2)(e). Additionally, in the case of an alleged security in an encumbered asset, the valuation of the secured portion of a claim as determined under Article 26.
- (3) The claims list shall be verified at the opening creditors' meeting in accordance with the provisions of Chapter 6.

**CHAPTER 5
PLANS OF COMPROMISE**

PART 1 – PLANNING

Article 40.

Any proposed plan of compromise shall be filed with the court no later than seven (7) days prior to the date of the relevant creditors' meeting. A proposed plan of compromise filed with the court shall be open for inspection by the public free of charge.

Article 41.

- (1) A plan of compromise shall state the period for the implementation of the plan, and may contain any method for the resolution of the debtor's insolvency, including:
 - (a) the cancellation, or reduction in the amount, of any claim, including in exchange for shares or equity in the debtor's business;
 - (b) the scheduling of the payment of any claim;

- (c) the continuation of the business of the debtor, or a part thereof, by the debtor or another person; and
 - (d) the sale or disposition of any asset of the estate, either subject to or free of any encumbrances or liens, or the distribution of all or any asset of the estate among those having an interest in such asset.
- (2) A plan of compromise shall provide for the payment in full of costs of the proceedings and other administrative claims, being the costs and claims incurred by the administrator in the course of the insolvency proceedings.

Article 42.

Inadmissible claims shall be deemed canceled by the plan of compromise, with the exception of claims falling under Article 39(3).

Article 43.

The costs incurred in the preparation and proposal of a plan of compromise by the debtor or the administrator shall be considered an administrative claim to be satisfied from the estate. Costs incurred in the case of other plan proposals shall be at the expense of the party making the proposal.

PART 2 – APPROVAL OF A PLAN OF COMPROMISE

Article 44.

The plan of compromise shall be submitted for the consideration and approval of creditors at the opening creditors' meeting or at any subsequent creditors' meeting convened for that purpose.

Article 45.

- (1) In approving a plan of compromise, creditors shall be grouped into the following classes and shall cast their votes in accordance with the amount of their respective claims in each of these classes:
 - (a) creditors holding secured claims;
 - (b) creditors holding claims which fall under Article 57(1)(c);
 - (c) creditors holding claims which fall under Article 57(1)(d).
- (2) A plan of compromise shall require the approval of:
 - (a) each class of creditors, through the affirmative votes of creditors in each class holding not less than three-fourths of the claims of all creditors who are present at the meeting; or

- (b) at least one class of creditors, through the affirmative votes of creditors in the class holding not less than three-fourths of the claims of all creditors who are present at the meeting.

Article 46.

Article 75 shall apply to the voting rights of creditors in voting on the plan of compromise, subject to the following:

- (1) a creditor whose claim is not impaired or affected by the plan of compromise shall have no right to vote; and
- (2) a creditor holding a secured claim shall be entitled to vote only:
 - (a) to the extent that the total amount of his claim exceeds the higher of:
 - the value of the secured portion of the claim as determined under Article 26 or,
 - the value of any proceeds from a sale of the encumbered asset; or
 - (b) if the creditor waives his security right in the encumbered asset.

Article 47.

- (1) No later than seven (7) days after a plan of compromise has been approved by the creditors as required under Article 45, the administrator shall make a written application to the court for court approval of the plan of compromise.
- (2) The court shall issue a ruling to approve the plan of compromise if the following conditions are satisfied:
 - (a) voting was carried out in accordance with the requirements of this Law;
 - (b) under the plan of compromise, all creditors in any given class will be treated on an equal footing, unless the affected creditors consent in writing to being treated less favorably than any other member of the class;
 - (c) under the plan of compromise, each dissenting creditor will receive satisfaction for its claim on terms not less favorable than what that creditor would have received under a distribution made in a liquidation in accordance with Article 57;
 - (d) under the plan of compromise, no creditor will receive more than the full amount of its claim;
 - (e) under the plan of compromise, no payments related to income, dividends or equity will be made to any shareholder or partner of the debtor until the final payment of the entitlements, under the plan, of the classes of creditors whose claims have been affected by the plan of compromise; and

- (f) under the plan of compromise, no maintenance greater than the amount of maintenance ordered by a court will be paid to a debtor who is a natural person, or to a general partner of a debtor which is a partnership, until the final payment of the entitlements, under the plan, of the classes of creditors whose claims have been affected by the plan of compromise.
- (3) If the plan of compromise does not satisfy any of the conditions set out in paragraph (2), the court shall make a ruling to commence the liquidation of the estate.
- (4) The court's ruling under this article shall be made no later than seven (7) days after the administrator's application for court approval of the plan of compromise.

Article 48.

- (1) The court's approval of a plan of compromise shall have the effect of terminating the insolvency proceedings and beginning the period for the implementation of the plan of compromise which shall be determined by the plan but not exceed a maximum of two (2) years following court approval of the plan.
- (2) A plan of compromise that has been approved by the court shall be binding on all creditors and extinguish any inadmissible claims, other than claims under Article 36(3).

Article 49.

- (1) During the period for the implementation of the plan of compromise, every business document issued by or on behalf of the debtor, being a document on which the debtor's name appears, shall contain a detail statement to the effect that a plan of compromise is being implemented with respect to the debtor.
- (2) The court may, when it approves a plan of compromise or at a later date, and for the purpose of ensuring the implementation of the plan of compromise, order that the administrator continue to supervise, on such terms as the court deems fit, the debtor's actions, or the actions of the debtor's managers. In making a ruling under this paragraph, the court shall also determine the amount of remuneration for the administrator, which shall be paid by the debtor.

Article 50.

- (1) In the event that the plan of compromise is not being implemented within the period provided for the implementation in the plan, insolvency proceedings shall be opened forthwith by a ruling of the court against the debtor.
- (2) An application under paragraph (a) for the opening of insolvency proceedings may be made by the debtor, creditors, the public prosecutor or the administrator under Article 49(2),
- (3) Insolvency proceedings opened under paragraph (1) shall immediately commence with the liquidation of the debtor. In the liquidation, the transforming effect of the plan of compromise with regard to creditors' claims, rights and security rights shall remain.

CHAPTER 6

THE OPENING CREDITORS' MEETING

Article 51.

The opening creditors' meeting shall be convened and chaired by a judge with the assistance of the administrator.

Article 52.

At the opening creditors' meeting, the administrator shall report on the debtor's business situation and the causes thereof. The administrator shall indicate whether there is a chance to maintain the debtor's business in whole or in part, what chances exist for the approval and implementation of a plan of compromise and what effects would arise for the satisfaction of the creditors.

Article 53.

At the opening creditors' meeting:

- (1) the creditors shall decide, based on the administrator's report for that meeting, on the continuation of the insolvency proceedings;
- (2) the creditors shall vote on any plan of compromise that may have been proposed by the debtor;
- (3) the claims list shall be verified; and
- (4) the creditors may also decide other matters related to the insolvency proceedings.

Article 54.

- (1) Following the consideration of the administrator's report, the creditors shall, if a plan of compromise has been proposed by the debtor, vote on such a plan of compromise.
- (2) In the event that no plan of compromise has been proposed by the debtor, or the debtor's proposed plan of compromise has not been approved by creditors, the creditors shall decide to:
 - (a) adjourn the opening creditors' meeting, but by no more than sixty (60) days, in order for the debtor, the administrator or any creditor or creditors holding not less than one-fifth of the total value of all claims to propose a plan of compromise; or
 - (b) commence the liquidation of the estate.
- (3) If the opening creditors' meeting is adjourned pursuant to paragraph (2)(a), at the reconvened meeting, the creditors shall consider and vote on only plan of compromise that may be proposed. In the event that no plan of compromise is approved by the creditors at the reconvened meeting, the liquidation of the estate shall commence.

Article 55.

- (1) The administrator, the debtor or any creditor may challenge the validity, amount, secured status, or other priority, of any claim in the claims list. A claim is deemed admitted for satisfaction in the insolvency proceedings if and to the extent to which it is not challenged by the administrator or by a creditor at the opening creditors' meeting.
- (2) In the case of a claim challenged by the administrator or a creditor regarding the validity, amount, secured status, or other priority, of such claim, it is for the creditor to seek the determination by judgment of the claim before the court. The court shall hear such a matter with utmost expediency.
- (3) The claims list shall be finalized by the administrator and filed with the court after any changes which may be necessary in light of any subsequent final determinations under paragraph (2).

CHAPTER 7
LIQUIDATION AND SATISFACTION OF CLAIMS

Article 56.

- (1) Upon the commencement of liquidation, the administrator shall convert all non-cash assets of the estate into cash as soon as possible, in so far as it is required for the satisfaction of creditors' claims in the insolvency proceedings.
- (2) In dealing with the assets of the estate, the administrator may use any commercially reasonable method or methods which is likely to yield the highest cash return to the estate.
- (3) In converting all non-cash assets of the estate, all assets disposed of by the administrator shall be free of any and all encumbrances or liens.

Article 57.

- (1) The proceeds of the liquidation of the estate shall be used to satisfy claims in the following order:
 - (a) employee wages, administrator's remuneration and fees, administrative fee, and the court's fees;
 - (b) the secured claims, up to the higher of the value of the secured portion of the claim as determined under Article 26 or the relevant net proceeds from an effective sale of the encumbered asset (collateral);
 - (c) state taxes whose notice is not filed;
 - (d) all other admissible unsecured claims;

- (2) With respect to any claim listed under paragraphs (1)(b), the amount of such claim which is in excess of the respective limits stated in those paragraphs shall be eligible for satisfaction as a general unsecured claim under paragraph (1)(d).
- (3) Any proceeds left undistributed after the satisfaction of all claims set out in paragraph (1) shall be returned to the debtor.

Article 58.

- (1) With the exception of assets in the estate which cannot be sold, the administrator shall complete the liquidation of the estate and the distribution of the sale proceeds no later than six (6) months after the commencement of liquidation. The court may, upon a written application by the administrator, extend by up to six (6) months the period for the liquidation of the estate and the distribution of the sale proceeds.
- (2) Funds may be distributed among the creditors of the insolvency proceedings as soon as sufficient cash is available in the estate.

CHAPTER 8

TERMINATION OF INSOLVENCY PROCEEDINGS FOLLOWING LIQUIDATION

Article 59.

The administrator shall submit to the court a written report on his activities. The report shall contain a final account of the distributions made and remaining unsatisfied claims. The report shall be submitted no later than thirty (30) days after the depletion of all saleable parts of the estate.

Article 60.

The court shall convene a final creditors' meeting within fourteen (14) days of its receipt of the administrator's report under Article 59. The creditors' meeting shall adopt the final account of the distributions made and remaining unsatisfied claims, and shall decide on the use of the parts of the estate that cannot be sold.

Article 61.

- (1) The court shall issue an ruling terminating the insolvency proceedings immediately after the final creditors' meeting.
- (2) The court's ruling terminating the insolvency proceedings shall be published in the Official Gazette and daily newspapers of the Kingdom of Cambodia.

Article 62.

Upon termination of the insolvency proceedings following liquidation, the offices of the administrator and of the members of the creditors' committee shall cease to exist. The debtor shall recover the right to dispose freely of remaining assets in the estate.

Article 63.

In the case of a debtor which is a company, the debtor shall be deemed dissolved upon the issuance of the court ruling terminating the insolvency proceedings upon liquidation, unless the termination of insolvency proceedings resulted from the satisfaction of all claims against the debtor in accordance with Article 57.

Article 64.

- (1) In the case of insolvency proceedings opened against a debtor who is a natural person or partnership domiciled in the Kingdom of Cambodia, the debtor may, in case of the termination of the proceedings upon liquidation, apply to the court to be released from all admissible claims which were not satisfied in the insolvency proceedings, unless undistributed assets or moneys were returned to the debtor under Article 57(3). Regardless of such a ruling, inadmissible claims except claims mentioned in Article 36(3) shall be deemed forgiven at the termination of insolvency proceedings.
- (2) All creditors and the public prosecutor shall be entitled to attend the hearing of an application under paragraph (1) and be heard by the court.
- (3) The court shall deny the release of the debtor from the unsatisfied claims if:
 - (a) the debtor has been convicted of a crime involving fraud or dishonesty in connection with the insolvency of the debtor's business;
 - (b) in the last three (3) years prior to the opening of insolvency proceedings, the debtor, intentionally or with gross negligence, made incorrect or incomplete statements in writing about his economic situation in order to obtain credit or to obtain payments from public funds or to avoid making payments to public agencies;
 - (c) in the last ten (10) years prior to the opening of insolvency proceedings, the debtor was granted a release from unsatisfied claims in another insolvency proceedings;
 - (d) in the last twelve (12) months prior to the commencement of insolvency proceedings, the debtor, intentionally or with gross negligence, impaired the satisfaction of the debtor's creditors by incurring unreasonable liabilities or wasted assets or delayed the opening of insolvency proceedings with no prospect of improving the debtor's economic condition;
 - (e) the debtor, intentionally or with gross negligence, did not discharge his obligations under Article 9;
 - (f) during the course of the insolvency proceedings, the debtor, intentionally or with gross negligence, violated his obligations to provide information and cooperation in the insolvency proceedings; and
 - (g) the debtor, intentionally or with gross negligence, provided false or incomplete information in complying with Article 29.

- (4) A ruling made under this Article shall not affect the ability of any creditor to apply for a resumption of insolvency proceedings against the debtor under Chapter 9.

CHAPTER 9

RESUMPTION OF INSOLVENCY PROCEEDINGS WHICH WERE TERMINATED AFTER LIQUIDATION

Article 65.

Any creditor whose claim was included in the claims list and was not satisfied in full may, within the period of one (1) year from the termination of the insolvency proceedings, make a written application to the court to resume the insolvency proceedings.

Article 66.

- (1) Insolvency proceedings shall be resumed to the extent appropriate by ruling of the court when:
- (a) amounts allocated for contested claims are released; or
 - (b) assets which may be used to satisfy claims of creditors and the existence of which were not taken into account during the insolvency proceedings are discovered.
- (2) Insolvency proceedings shall not be resumed where the amounts or value of assets set out in paragraph (1) are insufficient to cover the costs of the resumed proceedings.

Article 67.

- (1) The ruling to resume proceedings shall where appropriate re-establish the rights of the administrator and the creditors' committee.
- (2) Resumed proceedings shall be conducted in the same manner as a liquidation and the relevant provisions of this Law shall apply *mutatis mutandis*.

CHAPTER 10

ADMINISTRATOR AND CREDITORS

PART A – THE ADMINISTRATOR

Article 68.

- (1) Only a natural person may be appointed by the court as an administrator.
- (2) An administrator shall not:
- (a) have been convicted by a court of law of an offence involving fraud or dishonesty;

- (b) be the debtor, any creditor or a related person; or
 - (c) be the spouse of any creditor or debtor or the relative of debtor or creditor.
- (3) The Minister of Justice may by Declaration (Prakas) require:
 - (a) administrators to possess qualifications in addition to those set out in paragraph (2); or
 - (b) that all administrators be licensed by the Ministry of Justice, subject to such licensing requirements and conditions as determined by the Declaration.

Article 69.

- (1) An administrator shall be discharged from the proceedings by the court in the following cases:
 - (a) the administrator requests in writing to the court that he be discharged;
 - (b) the administrator ceases to possess the necessary qualifications set out in Article 68;
 - (c) upon the request of creditors holding not less than fifty one percent (51%) of the total value of all claims; or
 - (d) where it is proven that the administrator has failed to perform his duties or that he is acting in a manner detrimental to the interests of the creditors as a whole.
- (2) The court may discharge an administrator at any time on its own motion on any of the grounds specified in paragraph (a).
- (3) The court shall appoint a new administrator to replace a discharged administrator.

Article 70.

- (1) The administrator shall be considered an officer of the court and shall owe a duty of allegiance only to the court.
- (2) Any creditor or creditors may make a written request to the administrator for information regarding the administration of the estate or the status of the insolvency proceedings. The administrator shall provide such information as soon as possible after the receipt of such written request.

Article 71.

- (1) The administrator shall act with the care and diligence of a reasonable business person in similar circumstances.
- (2) The administrator shall be liable to the parties in the proceedings for any damage caused by his failure to exercise the required care and diligence.

Article 72.

- (1) An administrator shall be paid reasonable remuneration and be reimbursed for all reasonable expenses incurred in the performance of his duties. In calculating the rate of such remuneration, the factors to be taken into account shall include the time spent by the administrator in the performance of his duties, the total value of the estate and the scope and complexity of the insolvency proceedings.
- (2) The Minister of Justice may issue Declaration governing the rate of remuneration for administrators at the request of creditors.

PART B – CREDITORS

Article 73.

- (1) A creditors' meeting may be convened by the administrator at any time if he thinks that such a meeting will be beneficial to the administration of the insolvency proceedings.
- (2) Any creditor may make a written request to the administrator to convene a creditors' meeting. The written request shall state the matters proposed for discussion at the meeting.
- (3) A creditors' meeting shall be convened by the administrator within fourteen (14) days of the receipt of a written request from a creditor for such a meeting to be convened.
- (4) All creditors' meetings shall be chaired by the administrator or a judge of the court.
- (5) This article shall not apply to the opening creditors' meeting.

Article 74.

- (1) The administrator shall notify all creditors of the convening of a creditors' meeting by sending written notifications to all known creditors and placing advertisements in at least two major newspapers in the Kingdom of Cambodia announcing the following:
 - (a) the date and time of the meeting;
 - (b) the place where the meeting will be held; and
 - (c) the matters proposed for discussion at the meeting.
- (2) All creditors shall be given at least seven (7) days' advance notice of the convening of a creditors' meeting.
- (3) Any failure to comply with the requirements of this Article shall render null and void any decision taken at the relevant creditors' meeting.
- (4) This Article shall not apply to the opening creditors' meeting.

Article 75.

- (1) At any creditors' meeting, all decisions shall be taken by the affirmative votes of creditors holding a majority of the total value of the claims of creditors present and voting at the meeting.
- (2) Only creditors whose claims are not disputed by the administrator or by other creditors shall vote at a creditors' meeting. Creditors with disputed claims shall vote only to the extent permitted by the administrator or the creditors with a right to vote at the meeting. Where agreement cannot be reached between the parties as to the right of any creditor to vote at the creditors' meeting, the administrator shall make a written application to the court for a decision on the matter, and the creditors' meeting shall be postponed to a date seven (7) days after the court's decision on the matter.
- (3) Notwithstanding paragraph (2), creditors holding inadmissible claims shall have no right to vote.
- (4) Creditors may attend any meeting and may cast the applicable votes either personally or by proxy.

Article 76.

The creditors' meeting may consider and take decisions on any matter pertaining to the insolvency proceedings, including:

- (1) obtaining and considering a report from the administrator on the status of the insolvency proceedings;
- (2) the preparation, including by the administrator, of a plan of compromise;
- (3) the approval of a plan of compromise;
- (4) a decision to apply to the court to terminate the operating of the business of the debtor and to proceed with a liquidation of the estate;
- (5) the discharge and replacement of the administrator;
- (6) the making of a proposal to the Minister of Justice regarding the amount of the administrator's remuneration;
- (7) the appointment of a creditors' committee; and
- (8) any recommendations from the creditors' committee.

Article 77.

Any decision taken at a creditors' meeting shall be binding on all creditors, including creditors absent from the meeting.

Article 78.

- (1) At any creditors' meeting, the creditors may appoint a creditors' committee consisting of not less than three (3) and not more than nine (9) members, drawn from representatives of both secured and unsecured creditors.
- (2) All costs incurred by creditors in the establishment and operation of the creditors' committee shall be treated as claims incurred by the administrator in the course of the insolvency proceedings and satisfied accordingly under Article 57.

Article 79.

- (1) The creditors' committee shall represent the interests of the creditors as a whole.
- (2) The creditors' committee shall perform such duties as are entrusted to it by decisions taken by creditors holding a majority of the total value of all claims against the debtor. If requested by the administrator, the creditors' committee may also assist the administrator in the management of the estate.
- (3) Upon the request of the creditors' committee, the administrator shall permit the creditors' committee to inspect the books and accounts of the debtor.

**CHAPTER 11
SERVICE OF DOCUMENT**

Article 80.

- (1) The service of any document relating to the insolvency proceeding to a partnership or company shall be effected by leaving a copy of the document at the registered place of business of such partnership or company.
- (2) The service of any document relating to the insolvency proceeding to a natural person who is domiciled in the Kingdom of Cambodia shall be effected by leaving a copy of the document at the person's permanent residence in the Kingdom of Cambodia.
- (3) The service of any document relating to the insolvency proceeding to a legal person formed under the law of a foreign country or a natural person who is domiciled outside of the Kingdom of Cambodia shall be effected by the publication of a notice of the document in at least one major newspaper in the Kingdom of Cambodia and one major newspaper in the country where the person is formed or domiciled.
- (4) The court may, on the application of any interested party, order that the service of any document under this Law be effected by a method different from those set out in paragraphs (1) to (3), if the court is of the view that such other method would be more appropriate in the specific circumstances of the case.

CHAPTER 12

Penalties

Article 81.

Any offence in the insolvency proceeding shall be punished according to the provisions of the criminal code that is in force.

CHAPTER 13

Transitional Provisions

Article 82.

- (1) While the commercial court has not been established in the Kingdom of Cambodia, the court of common jurisdiction of the Kingdom of Cambodia shall have jurisdiction over all insolvency cases stated in this law.
- (2) When the commercial court is established in the Kingdom of Cambodia, the court of common jurisdiction shall transfer all jurisdictions in bankruptcy cases to the commercial court.

CHAPTER 14

Final Provisions

Article 83.

All provisions that are contrary to this law shall be considered as null and void.

Article 84.

This Law shall declare urgent.