

# **CHARTER OF AUSTRALIAN CHAMBER OF COMMERCE OF VIETNAM**

(This Charter has been approved by the Hanoi and HCMC Chapters at their respective Annual General Meetings on 24 March 2015)

24 March 2015

**CHARTER  
Of  
AUSTRALIAN CHAMBER OF COMMERCE OF VIETNAM**

This Charter has been adopted in accordance with Decree 08/1998/ND-CP dated 22 January 1998 and varies the original Charter dated 2009 by which and under Licence number OI/GP-HHDN/HCM issued by the People's Committee of Ho Chi Minh City on 19th September 1998, the Australian Business Group was established, as subsequently amended.

**Article 1  
Name of Association**

- 1.1. The association was named the "**Australian Business Group of Vietnam**".
- 1.2. In 2009 the Australian Business Group of Vietnam changed its name to the Australian Chamber of Commerce, and may use the abbreviated name "AusCham" (the chamber is hereinafter called "**AusCham**").
- 1.3. Any chapter of AusCham established under Article 3 of this Charter (a "**Chapter**") will be known as "Australian Chamber of Commerce of Vietnam, [name of Province/City] Chapter" or "AusCham, [name of Province/City] Chapter".
- 1.4. More broadly, irrespective of province / city, the Chapters will be referred to jointly as "AusCham", "AusCham Vietnam" or the "Australian Chamber of Commerce, Vietnam" whereby all Chapters in Vietnam will be managed by a single National Board to be elected jointly by the membership as a whole.

**Article 2  
Purpose of Association**

- 2.1 AusCham is established on a voluntary basis as a limited liability association and is non governmental, non political and a not-for-profit organization.
- 2.2 The objectives of AusCham are to promote the interests of its members and to foster Australia/Vietnam business interests and include:
  - a) Organizing internal information dissemination;
  - b) Organizing activities relating to exploring commercial and investment opportunities and issues;
  - c) Participating in activities relating to exploring commercial and investment opportunities and promotions organised by the Vietnam Chamber of Commerce and Industry and other relevant Vietnamese authorities;
  - d) Organising meetings between, and liaising with, its members and Australian Government and Vietnamese State management authorities on matters including commercial, investment and service issues;

- e) Through the National Board (defined in Article 3.2 below), submitting petitions and suggestions, directly or indirectly, to Vietnamese State management authorities and participating in activities and initiatives in order to protect legitimate interests of its members and to contribute to the creation and maintenance of a healthy business environment;
- f) Publishing and distributing internally news bulletins in compliance with the laws of the Socialist Republic of Vietnam; and
- g) Promoting business ties between Australia and Vietnam for the mutual benefit of members and their Vietnamese counterparts.

2.3 In furtherance of the primary activities, AusCham will:

- a) arrange functions amongst its members, with the members of other associations, both foreign and domestic, Vietnamese state management authorities and with delegations visiting Vietnam;
- b) raise funds through various lawful means, to meet the cost operations of AusCham;
- c) support appropriate charitable organisations; and
- d) undertake such other activities as may from time to time be permitted under the laws of Vietnam.

2.4 The President of AusCham, or in his/ her absence, the Vice President of AusCham, or his/ her appointed representative from the National Board shall represent AusCham before the Vietnamese Authorities and other bodies.

### **Article 3 Head Office and Structure of AusCham**

- 3.1 The head office of AusCham will be in Ho Chi Minh City, unless otherwise resolved by the National Board and approved by the relevant authorities.
- 3.2 Subject to necessary approvals, if any, to establish other Chapters, AusCham will be organised into two city Chapters of Hanoi and HCMC which will be managed by a single National Board to be elected jointly by the membership as a whole in accordance with the terms of this Charter (the “**National Board**”).
- 3.3 The National Board may, at its discretion, appoint an additional representative to the National Board from another city (eg Danang / Hoi An) at any time where 15 voting corporate or individual members resident in that city formally notify the National Board of their desire.
- 3.4 Each member of AusCham (except Honorary Members and Honorary Life Members) will be registered to a Chapter, and only one Chapter, of AusCham at any one time. The Chapter they are registered to will be the Chapter in the location in which they reside for the majority of their time in Vietnam. Should they live outside a registered Chapter location, they may choose their preferred Chapter. Registration may be transferred between Chapters upon application and approval of the National Board.

- 3.5 The National Board will comprise 12 members, being voting members. The National Board will be elected by vote of all eligible voting members of AusCham. Additionally, there will be two non-voting Ex Officio members in Hanoi (a representative of the Australian Trade Commission and a representative of the Australian Embassy / Consulate and one non-voting Ex Officio member in HCMC (a representative of the Australian Trade Commission). Ex Officio members of the Board cannot be appointed to the positions of President, Vice President, Secretary or Treasurer.
- 3.6 The National Board will elect from its members, by open vote, a President, Vice-President, Secretary and Treasurer with the one condition that the President and Vice President must be registered to different Chapters.
- 3.7 Nominees for the positions of President and Vice-President must have served as National Board members and /or members of a former Chapter Committee for at least 12 months unless no current National Board member satisfies such requirement.
- 3.8 If the National Board cannot agree on a President and/or Vice-President, then there will be a vote of all voting members of AusCham and the candidate with the most votes will hold the contested position.
- 3.9 Each person elected to the National Board will hold office for a term from 1 April until 31 March in the following year. Election of the National Board will take place at the Annual General Meetings of each Chapter to be held simultaneously in February or March each year. Prior to 1 April each year, the newly elected National Board will elect its President, Vice-President, Secretary and Treasurer. A person may be re-elected to the National Board and to any position.

## **Article 4 Membership**

### **Categories of Membership**

- 4.1 There will be 7 categories of membership of AusCham:
- (a) Individual Voting Membership
  - (b) Individual Associate Non Voting Membership
  - (c) Corporate Voting Membership
  - (d) Corporate Associate Non Voting Membership
  - (e) SME Voting Membership
  - (f) SME Associate Non Voting Membership
  - (g) Honorary Non Voting Membership
  - (h) Honorary Life Membership
  - (i) Australian Non Voting Alumni Membership
- 4.2 *Individual Voting Membership* will be open to those business persons legally resident in Vietnam who are:
- (a) Australian citizens; or
  - (b) Employed by businesses which have, in the opinion of the National Board, substantial Australian ties.

Individual Voting Members may nominate themselves for election to the National Board, provided they are seconded by another voting member (corporate or individual).

- 4.3 *Individual Associate Non Voting Membership* will be open to those business persons who do not meet the requirements for individual voting membership but who can demonstrate to AusCham a business link to Australia or Australian business in Vietnam.
- 4.4 *Corporate Voting Membership* is open for up to a maximum of three (3) nominees of those legal entities operating in Vietnam which have, in the opinion of the National Board, substantial Australian ties. Nominees must be individuals employed by the qualifying entity and must be resident in Vietnam. Nominees of Corporate Voting Members may nominate themselves for election to the National Board, provided they are seconded by another voting member (corporate or individual). A nominee of a Corporate Voting Member must transfer his/her membership to another individual employed by the same qualifying entity and resident in Vietnam upon leaving the employ of such Corporate Voting Member and may do so at any other time by notice to the National Board. Additional employees from the qualifying entity will be eligible for a Corporate Associate Non Voting membership at an additional cost.
- 4.5 *Corporate Associate Non Voting Membership* is open for up to a maximum of three (3) nominees of those legal entities which do not qualify for ordinary Corporate Voting Membership but can demonstrate, to the satisfaction of the National Board, a business link to Australia or Australian business in Vietnam. Nominees must be individuals employed by the qualifying entity. A nominee of a Corporate Associate Non Voting Member may transfer his/her membership to another individual employed by the same qualifying entity by notice to the National Board. Additional employees from the qualifying entity may be added to the membership at an additional cost.
- 4.6 *SME (Small and Medium Sized Enterprises employing less than 20 staff) Voting Membership*. As per the terms and conditions in Article 4.4 (Corporate Voting Membership) described above with the exception that the number of nominees be restricted to two (2) unless an additional fee is charged.
- 4.7 *SME (Small and Medium Sized Enterprises employing less than 20 staff) Non Voting Membership*. As per the terms and conditions in Article 4.5 (Corporate Associate Non Voting Membership) described above with the exception that the standard number of nominees be restricted to two (2) unless an additional fee is charged.
- 4.8 *Honorary Non Voting Membership* of AusCham will be open to those persons invited by the National Board to be honorary members of AusCham. Honorary Membership is an annual membership. There may be no more than 10 Honorary Members at any time and this is a non voting membership.
- 4.9 *Honorary Life Membership* of AusCham will be open to those persons invited by the National Board to be Honorary Life Members. The criteria for being invited to become an Honorary Life Member is a person who, in the unanimous opinion of the National Board, has significantly contributed to the advancement of the interests of AusCham. An Honorary Life Member must not be a serving member of the National Board at the time of becoming

an Honorary Life Member. Vietnam resident Honorary Life Members are voting members while non resident Life Members are non voting members; and

4.10 *Australian Non Voting Alumni Membership* of AusCham is for Vietnamese who have graduated from a university in Australia or an Australian University in Vietnam. This is an individual membership with non voting rights.

4.11 Only voting members may nominate or be nominated for the National Board.

### **Application for Membership**

4.12 To become a member, applicants must submit to the Secretary of AusCham an application in the form determined by the National Board. The application for membership must be approved by AusCham's Administration and the applicant, if approved, will be registered as a member of AusCham through their default or nominated Chapter as the case may be. An applicant may appeal a decision to the National Board and its decision will be final.

### **Resignation**

4.13 Any Member wishing to resign from membership of any Chapter must deliver written notice of resignation to AusCham's Administration. Every resignation notice shall be deemed to take effect on the date stated in the notice, or, on the date that such notice is received by the Administration whichever is the later.

### **Expulsion**

4.14 The National Board may, by notice in writing, invite any Member (other than Honorary Members) to resign his/her membership or expel such Member if, in the opinion of the National Board:

- (a) such Member has breached the Charter of AusCham;
- (b) such Member has conducted himself/herself in an unbecoming manner; or
- (c) allowing such Member to remain as a Member would bring discredit to AusCham.

4.15 A Member may formally request the National Board to review its decision under Article 4.10. A resolution of the National Board to uphold its earlier decision under Article 4.11, passed by a majority of the National Board members, shall be final and binding on the Member.

### **Termination of Membership**

4.16 Membership will be terminated if a Member:

- (a) dies;
- (b) resigns;
- (c) is declared bankrupt by a court of competent jurisdiction;
- (d) ceases to qualify for membership under his/her category of membership;
- (e) is expelled under Article 4.10 or 4.11 above;

- (f) is in arrears of payment of any Fees (as defined in Article 4.17) or of any other additional contributions and charges required to be paid to AusCham and the National Board resolves to terminate the Member's membership; or
- (g) is declared by a court of competent jurisdiction to be legally or mentally incompetent.

4.17 Each Member shall, on termination of their membership of AusCham for whatever reason, forfeit all right to and claims upon AusCham, its Chapters and their property and funds.

### **Rights and Duties of Members**

- 4.18 Members shall be eligible to receive assistance and advantages within the scope of the objects of AusCham.
- 4.19 Members must comply with this Charter and any policies and rules of AusCham, as amended from time to time.
- 4.20 No Member shall, by reason of membership of AusCham, be liable for any debt or obligation of AusCham in the absence of an express written promise to accept such liability.

### **Fees**

- 4.21 Fees ("**Fees**") will be payable on joining, on an annual basis and, in the case of Corporate Membership, on transfer of the Corporate Membership. The level of Fees will be set by the National Board. Honorary Members and Honorary Life Members will not be required to pay Fees. Fees for those who join a Chapter after 1 July in a relevant year will be reduced pro rata.
- 4.22 Fees payable will be retained by AusCham to meet its ongoing costs and obligations.
- 4.23 Notwithstanding registration of membership through one Chapter, any Member of AusCham will be entitled to attend any meeting of AusCham and, except for voting and quorum requirements at any General Meeting (as defined in Article 6.9 below), there will be no difference in the treatment of Members of different Chapters.

## **Article 5 National Board and Meetings**

### **Powers and Duties of the National Board**

- 5.1 The National Board is the paramount executive body of AusCham, must act in accordance with the terms of this Charter and may make decisions that do not conflict with the terms of this Charter.
- 5.2 The National Board shall regulate its own proceedings as it sees fit in accordance with the provisions of this Charter and will be responsible for:

- (a) representing AusCham in any national issues;
  - (b) setting policy, guidelines and national rules of AusCham;
  - (c) issuing statements on the position of AusCham on any issue; and
  - (d) ensuring that the operation of Chapters do not conflict either between themselves or with the overall objectives, policies or guidelines established by the National Board.
- 5.3 The National Board shall have power to authorise the expenditure of such sums as it may deem fit.
- 5.4 The National Board shall have power to appoint a member from any Chapter to fill any casual vacancy on the National Board until the next Annual General Meeting. A member so appointed shall retire at the next Annual General Meeting of the respective Chapter, but shall be eligible for re-election.
- 5.5 The National Board may establish and appoint sub-committees and co-opt members to the sub-committees and National Board as and when deemed necessary or expedient. The National Board will determine the scope of duties, responsibilities and powers of such sub-committees on a case-to-case basis.
- 5.6 The National Board shall have power to appoint, pay and dismiss an administrator or secretary and such other employees as it may deem necessary.
- 5.7 The National Board may not act contrary to decisions made at General Meetings, without first reverting to General Meetings for approval.

### **Meetings**

- 5.8 A National Board member who is incapacitated for a substantial period or absents himself/herself for three consecutive National Board meetings without any satisfactory explanation or ceases to qualify as a voting member (as defined in Article 4), shall cease to be a member of the National Board and the National Board shall appoint a member to fill the vacancy until the next Annual General Meeting of the relevant Chapter.
- 5.9 A National Board meeting shall be held whenever considered necessary, but will typically meet on a monthly basis and must meet not less than once every three (3) months, and shall be held when called by the President or Vice President. At least seven (7) days notice of a National Board meeting shall be given.
- 5.10 One half of the then-current National Board number present in person or proxy shall be a quorum for any National Board meeting, provided that at least one National Board member from each Chapter is present in person or proxy. Where there are not enough National Board members present to form a quorum, the numbers of ex-officio members may be included in the count for quorum provided there is at least one Voting member present from each Chapter. The National Board shall decide all questions by a simple majority of National Board Members present in person or proxy (excluding ex-officio members).



- 5.11 A National Board member may appoint another National Board member as proxy to attend a meeting on his/ her behalf or may register with the President a vote in respect of any matter to be raised at a meeting of the National Board where such member will not be present and in relation to any vote on that issue, the member will be considered present and his/her vote cast by the President as registered.
- 5.12 Where there is a tie on any vote, the President or in his or her absence, the Chair, shall have the casting vote.
- 5.13 A National Board Member shall be deemed to be present at a meeting of the National Board if he/she participates by telephone or other electronic means and all National Board Members participating in the meeting are able to hear each other.
- 5.14 A resolution proposed in writing sent to all the National Board Members entitled to receive notice of a meeting of the National Board, and signed and returned by letter or facsimile by a majority of the National Board Members, shall be as valid and effectual as if it had been passed at a meeting of the National Board duly convened and held and may consist of several documents in like form.
- 5.15 All documents that need to be signed by the National Board shall be signed by the President or by any two National Board Members not from the same Chapter.

## **Article 6 General Meetings**

### **Annual General Meetings**

- 6.1 The Annual General Meetings for each Chapter shall be held simultaneously in February or March of each year, on a date to be fixed by the National Board.
- 6.2 The following business will be considered at the Annual General Meeting of each Chapter:
- (a) To receive from the National Board a report on activities of AusCham since the last Annual General Meeting, Balance Sheet and Statement of Accounts for the preceding financial year and an estimate of the receipts and expenditure for the current financial year for AusCham;
  - (b) To elect the National Board members for the following year;
  - (c) To appoint an auditor for the following year; and
  - (d) To transact any other business which may properly be brought forward at the meeting.
- 6.3 At least one (1) month before the Annual General Meeting for each Chapter, the National Board's Secretary or National Executive Director shall send a notice of such meeting and particulars of the Agenda to every member of AusCham. Notice shall be deemed validly given upon posting of the notice based on the then register of members of AusCham.

- 6.4 Any member of a Chapter who wishes to add an item to the agenda may do so by giving written notice to the National Board's Secretary fourteen (14) days before the General Meeting is scheduled to be held.
- 6.5 The Report, Balance Sheet, Statement of Accounts and estimates shall be made available for review during office hours at a place determined by the National Board at the earliest practicable opportunity before the Annual General Meeting.

### **Extraordinary General Meetings**

- 6.6 The National Board may at any time for any special purpose, call an Extraordinary General Meeting and shall do so within fourteen (14) days upon a request in writing by not less than 20 per cent of the total membership entitled to vote at any General Meeting or otherwise by decision of the National Board.
- 6.7 The written request stating the purpose for which the meeting is required shall be lodged with the Secretary.
- 6.8 At least fourteen (14) days notice of an Extraordinary General Meeting shall be given by the Secretary to all voting members (as defined in Article 4). Notice shall be deemed validly given upon posting of the notice based on the then register of members.

### **Voting and Quorum at General Meetings**

- 6.9 For the purposes of any vote and any calculation of quorum at any Annual General Meeting or Extraordinary General Meeting of the Chapter (each a "**General Meeting**"), only voting members registered to the Chapter ("voting members") whose Fees are fully paid up at the date of the relevant General Meeting will be entitled to vote and be able to form the quorum for such a General Meeting;
- 6.10 Voting for candidates to fill the positions on the National Board shall be *national* where each voting member, irrespective of which Chapter they are registered in, gives one vote to each of his/her:
- a) Four (4) preferred candidates in Hanoi (ie, one vote for each of the voter's preferred four candidates); and
  - b) Eight (8) preferred candidates in HCMC (ie, one vote for each of the voter's preferred eight candidates).
- 6.11 The four highest ranked candidates from Hanoi shall fill the positions on the National Board reserved for Hanoi while the eight highest ranked candidates from HCMC shall fill the positions on the National Board reserved for HCMC.
- 6.12 Where there is a tie between candidates for the remaining positions in a Chapter's allocation, the elected members from that Chapter shall determine which candidate(s) will be successful. Where they cannot reach unanimous agreement, the successful candidates from the other Chapter shall determine which of those candidates will be elected to the Board.

- 6.13 A voting member may vote by written proxy delivered to a member of the National Board prior to the General Meeting. The proxy nominated must at the time of the General Meeting be a voting member. Each voting member shall be entitled to a single vote. Each proxy form must be completed in the prescribed manner and clearly show the name(s) of those to whom the proxy is allocated.
- 6.14 Where possible, an option to vote online in the week prior to the scheduled General Meeting will be made available to voting members. If so, votes cast online by eligible voting members will be considered valid. Members who vote online but who do not physically attend the General Meeting in question will be considered present for purposes of determining quorum for the General Meeting in question.
- 6.15 The quorum at a General Meeting shall be one-fourth of all voting members present in person, by proxy or by having made prior online vote. If within half an hour from the time appointed for the General Meeting in question a quorum is not present, then those voting members present shall be considered a quorum and have authority to make decisions but shall have no power to alter, amend or make additions to the Charter.
- 6.16 Non-voting members may, with the approval of the National Board, attend General Meetings, but shall not be entitled to vote. Non-voting members shall not count towards a quorum.

#### **Article 7 Accounts**

- 7.1 The financial year of AusCham shall begin on 1 January and end on 31 December in the same calendar year, to which day the accounts of AusCham shall be balanced.
- 7.2 The accounts shall, as soon as practicable after the end of the financial year, be audited by a professional accountant who shall be appointed at the Annual General Meeting of the Chapter. The accountant may not be a member of the National Board.

#### **Article 8 Amendment to Charter**

- 8.1 No alteration to this Charter will be made unless by vote of voting members at a General Meeting of each Chapter and such vote is carried in the following way:
- (a) a quorum for meeting (as determined in accordance with Article 6.15 above) is present at the commencement of each General Meeting or any adjournment at which the resolution is put; and
  - (b) at least two thirds of eligible voters voting on the resolutions pass the resolution in favour of the alteration(s) being made.

#### **Article 9 Dissolution**

- 9.1 AusCham shall not be dissolved, except with the consent of not less than three fifths of all voting members, either in presence or by proxy at a General Meeting of each Chapter.
- 9.2 A Chapter of AusCham may be dissolved by resolution of three fifths of all voting members of that Chapter and will be automatically dissolved if its membership falls below 10 voting members resident in the relevant Chapter and remains at that level for more than 3 months.
- 9.3 In the event of AusCham being dissolved as provided above, all debts and liabilities legally incurred on behalf of AusCham shall be fully discharged, and the remaining funds will be disposed of to an Australian registered Charity operating in Vietnam, as decided by the National Board. In the event of a shortfall of funds, creditors will be paid in accordance with the provisions of the Bankruptcy Law of Vietnam and none of the National Board Members, Members of AusCham or the administration will be liable for such shortfall and
- 9.4 Notice of dissolution shall be given to the relevant People's Committee within seven (7) days of final dissolution of any Chapter of AusCham.

#### **Article 10 Property of AusCham**

- 10.1 There will be a bank account (“**Bank Account**”) held at one bank as determined by the National Board and such other accounts as may be permitted by law and approved by the National Board.
- 10.2 The Bank Account will be divided into sub accounts as follows:
  - (a) National Board sub account;
  - (b) a sub-account for each Chapter; and
  - (c) such other sub-accounts as the National Board may approve.
- 10.3 Signatories on the Bank Accounts will be as follows:
  - (a) In relation to National Board sub-account: either the Treasurer and one other member of the National Board or 3 members of the National Board;
  - (b) In relation to the Chapter sub-accounts: either the National Treasurer and one other member of the National Board representing that Chapter or three members of the Board with at least one representative of that Chapter; and
  - (c) In relation to sub-accounts established under Article 10.2(c), such signatories as the National Board may resolve.
- 10.4 Forthwith upon termination of the term of office of the Treasurer and any relevant National Board Members shall sign all papers and take all action necessary to change bank mandates of each Chapter and of AusCham to any new National Treasurer or National Board Members.



10.5 The National Treasurer shall deal with the property of each Chapter and of AusCham and the National Board shall from time to time direct in accordance with the Charter.

**Article 11**

**Limitation of Liability and Indemnification of Committee Members**

- 11.1 As a limited liability association, the liability of Members to AusCham, other Members and third parties is limited to the amount of unpaid Fees outstanding; and
- 11.2 Each National Board Member shall be indemnified and held harmless (to the extent of the assets of AusCham) against all losses, liabilities and expenses threatened, incurred or suffered by him/her in connection with his/her term of office as a National Board Member (whether during or after such term of office) provided that such National Board Member in all events has acted honestly and in good faith and in a manner he/she believed to be in, or not opposed to, the best interests of AusCham.

**Article 12**

**General**

- 12.1 In the event of any question or matter arising out of any point which is not expressly provided for in this Charter or other rules of AusCham, the National Board shall be entitled to determine such question or matter in its sole discretion.

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