

# EMPLOYMENT MANUAL

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# EMPLOYMENT MANUAL<sup>1</sup>

This Employment Manual is intended to be an easy desk-top reference for the Chief Representative, the General Director, the Human Resources Manager, or any person who wants a good understanding of Vietnam’s labor law. It is designed to orient management to issues with which it must be familiar. Even though the law on each subject is treated with considerably more depth in the Labor Code and its accompanying laws, decrees and circulars, this Manual should provide the reader with a good basic understanding. However, the Manual is not a substitute for a comprehensive understanding of the labor laws.

## 1. Sources of employment and industrial relations laws

Sources of employment and industrial relations laws include:

- Constitution 2013, effective from November 28, 2013 (“**Constitution 2013**”);
- Labor Code, effective from May 1, 2013 (“**Labor Code**”).

## 2. Relevant statutes

Statutes that are relevant to labor and industrial relations include:

- Civil Code 2015;
- Civil Procedures Code 2015;
- Penal Code 2015;
- Law on Trade Unions 2012; and
- Law on Enterprises 2014.
- See also **Schedule 1**.

## 3. Relevant government bodies, authorities, tribunals, agencies, commissions, councils or courts

### 3.1 Ministry of Labor, War Invalids and Social Affairs (“MOLISA”)

The MOLISA is a Government body with authority to discharge the State’s administration of labor, employment, and occupational safety and health responsibilities. One of its major tasks is to assist the Government to draft and issue legal documents, including those that relate to labor and employment issues. It can also issue its own legal documents, like circulars, decisions, or rules that regulate the employment relationship.

The MOLISA has power to implement national policies on employment, provide guidance concerning such policies, and supervise persons subject to the policies in order to ensure compliance.

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<sup>1</sup> This Employment Manual has been written by lawyers in the Vietnam offices of Russin & Vecchi and is current as of January 2019. In various places, we refer to amounts in Vietnamese dong. The approximate current exchange rate is US\$1.00 = VND 23,000.

### **3.2 Provincial Departments of Labor, War Invalids and Social Affairs (“DOLISA”)**

The DOLISA is under the People’s Committee of a province or centrally-run city. It administers employment issues within its respective locality. A company is subject to the DOLISA of the province or city in which it is located. The DOLISA is responsible for registration of a company’s Internal Labor Rules. It reviews applications for work permits for expatriates and reports on termination of employment, as discussed throughout this Manual.

### **3.3 The Vietnam General Confederation of Labor**

The Vietnam General Confederation of Labor, in conjunction with trade unions at all levels, supervises compliance with labor laws.

According to the Law on Trade Unions 2012, trade unions are the sole representatives of collective labor in Vietnam.

### **3.4 People’s Courts**

The district level People’s Court has jurisdiction to settle labor disputes that relate to an entity located within the district and do not involve a foreign element. Generally, these are disputes in which neither party is a foreigner. In particular, the district level People’s Court has jurisdiction in cases where the employee is not an expatriate or the employer is not a representative office or branch of a foreign company.<sup>2</sup>

The People’s Court in a province or centrally-run city, on the other hand, has jurisdiction to settle labor disputes that involve a foreign element and that relate to an entity located within that province or city.

## **4. Employee and Employer**

### **4.1 Employer**

Under the Labor Code, an employer is defined as an enterprise, an agency, an organization, a cooperative, a household or an individual who hires or employs employees under labor contracts. The current definition does not clarify whether a foreign entity located outside of Vietnam--say, a company licensed and headquartered abroad -- can be an employer under Vietnamese labor law. There is no legal process for a foreign entity to fulfill an employer’s obligations such as contribution to compulsory insurance, withholding personal income tax, annual employment reports, etc.<sup>3</sup> The answer is ambiguous, but a foreign entity generally cannot employ a person under Vietnamese labor law. However, if the foreign entity has a presence in Vietnam (ie, a representative office, or a branch), its presence may

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<sup>2</sup> According to the Civil Code 2015, a representative office or a branch does not have legal status. The parent is liable before the law for the activities of the representative office or branch. In practice, a representative office of an offshore company can be considered as a defendant or plaintiff if there is a signed labor contract between the representative office and employee.

<sup>3</sup> See Art.6 of Labor Code.

on behalf of the parent company be expected to fulfill its obligations. In such a case, the foreign entity may be an employer, but, again, the situation is ambiguous.

#### 4.2. Employee

Employees who are covered by the labor law include Vietnamese and foreign individuals who work for employers as defined above.

According to the Law on Enterprises 2014, a company may have one or many legal representatives. These legal representatives are appointed as specified in the company's charter.<sup>4</sup> Legal representatives are also employees even if they do not have a day-to-day role. The employment relationship of a legal representative is governed by the labor law. However, unlike other employees, the rights and duties of legal representatives are not only specified in their labor contract, but also in the Law on Enterprises 2014, the company's charter (articles of association) and resolutions.

It is unclear whether a foreign employee who is internally transferred from the parent company to a Vietnamese subsidiary and has an offshore employer, is covered by Vietnamese labor law. The Labor Code suggests that he is, as Article 2 of the Labor Code provides that a foreigner who works in the territory of Vietnam is subject to the law of Vietnam. However, if there is no local labor contract to be signed between the foreign employee and a Vietnamese subsidiary, the applicable Vietnamese labor law will not apply other than provisions on work permit.

According to the Labor Code, a chief representative or the head of a branch represents the employer in the representative office's or the branch's employment relationship with its employees. In these circumstances, it is not clear how an individual can be in the position of both an employee and an employer, as chief representative or branch head, in a labor contract. The issue remains unresolved under labor regulations. In practice, and to avoid doubt, the labor contract of a chief representative or a branch manager is often signed by the parent company. However, if the employee is a foreigner and is engaged under a contract directly with the parent company--an offshore company--such contract is probably not subject to Vietnamese labor law. In such a case, the parties are permitted to choose a foreign law to resolve labor disputes.

### 5. Work permits for foreign employees

Most foreigners who work in Vietnam are required to have a work permit. To obtain a work permit, the expatriate must be in good health, of sufficient age, not subject to prosecution and must work as a manager/general director ("**GD**"), Chief Representative ("**CR**") of a Representative office of a foreign entity in Vietnam ("**RO**") or an expert or a technician.<sup>5</sup> Work permits are issued by the provincial DOLISA and remain valid for a term of two years<sup>6</sup>.

However, the Labor Code allows foreign employees to work without obtaining a work

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<sup>4</sup> See Art. 13.2 of Law on Enterprises 2014.

<sup>5</sup> See Art 9 of Decree 11/2016/ND-CP dated February 3, 2016 ("**Decree 11/2016**").

<sup>6</sup> See Art. 173 Labor Code.

permit in the following circumstances:<sup>7</sup>

- a. He is a capital contributing member/owner of a limited liability company established in Vietnam;
- b. He is a member of the Management Board of a joint stock company established in Vietnam;
- c. He is the head of either a RO or a project of an international organization or a foreign Non-Governmental Organization (“NGO”) in Vietnam. A chief representative of a commercial RO is not included in this category; he is required to have a work permit;
- d. He enters and stays in Vietnam for fewer than three consecutive months to sell services. A work permit is required if a foreign service-sales-person stays in Vietnam for three or more consecutive months;
- e. He enters Vietnam and stays for less than three consecutive months, to handle an emergency matter or one that involves complicated technical or technological problems that affect production/business and cannot be adequately addressed within Vietnam. However, if the situation requires the expatriate to stay in Vietnam for over three months, a work permit is necessary after the initial three months period;
- f. He is a foreign lawyer with a Certificate of Law Practice in Vietnam granted by the Ministry of Justice;
- g. He is a foreign pupil/student who is studying in Vietnam. The employer, however, must inform the provincial labor authority of its recruitment of a foreign pupil/student seven days prior to the recruitment;
- h. He is seconded to Vietnam as permitted under Vietnam’s WTO Commitments. Under Appendices 1 and 2 of Circular 41<sup>8</sup>, the 11 services include: business services (such as: professional services, computer and related services, research and development services, rental services without an operator), communications services, construction and related engineering services, distribution services, educational services, environmental services, financial services, medical and social services, tourism and related travel services, recreational, cultural and sporting services, and transport services;
- i. He provides advisory services and technical expertise or performs other tasks in respect of research, construction, appraisal, monitoring and evaluation, management and implementation of programs/projects funded with official development assistance (“ODA”) as specified and agreed in international agreements on ODA between competent authorities of Vietnam and other countries;

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<sup>7</sup> See Art. 172 Labor Code and Art.7 of Decree 11/2016.

<sup>8</sup>Circular No. 41/2014/TT-BCT of the Ministry of Industry and Trade dated November 5, 2014 regarding foreign employees seconded to enterprises belonging to one of the 11 services on the list of Vietnam’s WTO Commitments.

- j. He is issued a license for the practice of journalism in Vietnam by the Ministry of Foreign Affairs;
- k. He is a teacher of a foreign organization sent to Vietnam by such organization to teach and research in international schools under the management of foreign diplomatic missions or international organizations in Vietnam or is permitted by the Ministry of Education and Training to teach and research in Vietnam's education and training institutions;
- l. He is a volunteer certified by a foreign diplomatic mission or an international organization in Vietnam;
- m. He works as an expert, manager, executive director or technical employee for a period of less than 30 days, and no more than 90 cumulative days in one year;
- n. He implements international agreements to which central and local state agencies are signatories;
- o. He is a student studying in foreign schools and institutions having agreements on internship in agencies, organizations and enterprises in Vietnam;
- p. He is a relative<sup>9</sup> of a member of a diplomatic person accredited by the Ministry of Foreign Affairs to a foreign diplomatic mission in Vietnam to work, except where international treaties to which Vietnam is a signatory contains provisions different from this;
- q. He has an official passport to work for state agencies, social organizations and socio-political organization;
- r. He is a foreign individual in charge of establishing a commercial presence in Vietnam;<sup>10</sup>
- s. He is a relative of members of foreign diplomatic missions in Vietnam, who are permitted to work according to international treaties to which Vietnam is a signatory<sup>11</sup>.

In order for an expatriate to be exempt from a work permit, the employer must file an application with the DOLISA to confirm the exemption, except in circumstances d, e and m above.

The Labor Code also provides guidelines to permit an employer to recruit a foreigner as (i) a manager, (ii) a GD; (iii) an expert or (iv) a technician.

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<sup>9</sup> There is no provision which gives a clear definition of "relative", such as whether a relative means parents, spouse, children only or whether it includes parents in-law, cousins, nephews and nieces, etc.

<sup>10</sup> See Article 11 of Decree No.140/2018/ND-CP dated October 8, 2018 which amends Decree 11/2016 ("Decree 140/2018").

<sup>11</sup> See footnote no.10.

A foreigner is considered to be a manager or a GD when he satisfies one of the following circumstances:

- A manager is an executive of an enterprise<sup>12</sup>, or is the head or deputy head of an office or organization; or
- A GD is the person who directly manages departments within an office, organization or enterprise.

A foreigner is an expert when he satisfies one of the following conditions:

- He is certified by an appropriate foreign authority/organization as an expert;
- He possesses a university or higher degree and has at least three years of working experience.

A foreigner is a technician if he satisfies the following requirements:

- He has been trained in a technical or other specific subject for at least one year; and
- He has worked for at least three years in his trained area.

The documents required to apply for a work permit are set forth in Article 10 of Decree 11/2016/. The employer and the employee are specifically named and the work permit is not transferable. In addition, the work permit cannot be renewed. A new application must be filed upon expiration<sup>13</sup>. For renewal, some documents and procedures are waived.

Notably, prior to obtaining a work permit for an expatriate, the employer must first obtain an affirmation from the People's Committee that there is sufficient demand which necessitates recruitment of an expatriate, except in circumstances d, e, m and s<sup>14</sup> above. For the time being, this affirmation is routinely provided.

## **6. Probation**

Regulations on probation are provided in Article 26 of the Labor Code.

An employer and an employee may enter into an agreement on probation:

- If the employee is recruited for a position that requires a professional or technical college qualification or above, the probationary period cannot exceed 60 days;
- If the employee is recruited for a position that requires an intermediate-level qualification, or if he is recruited to be a technical worker or staff, the probationary period cannot exceed 30 days;
- For other positions, the probationary period cannot exceed six working days.

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<sup>12</sup>According to Article 4.18 of the Law on Enterprises 2014, an executive of a company can be the Chairman, President, a member of the Board of Management or Members Council, GD and any other person who is authorized to conclude transactions on behalf of the company and in accordance with its charter.

<sup>13</sup>See Art.13.2 of Decree 11.

<sup>14</sup> See footnote no.10.

The Labor Code does not permit the use of a probationary period for an employee entering into a seasonal contract with a duration of less than 12 months. A probationary period cannot be extended.

During the probationary period, the employee is entitled to a salary of at least 85% of the salary that he would be entitled to receive if he were employed.

If contract for probation is signed separately from a labor contract, there is no obligation to make the normal compulsory insurance contribution (including social insurance, health insurance and unemployment insurance). If, however, probation is part of the labor contract in which there is a term of probation, both the employer and the employee are subject to contribution.

Either the employer or the employee may terminate the probation agreement without prior notice and without compensation for such termination. However, payment for time served must be made.

Upon the expiration of a probation period, the employer is responsible to inform the employee about the result of the probation. If the employee's performance meets the requirements set out in the probation contract, the employer must enter into a labor contract with the employee. The Labor Code does not indicate whether the employee is deemed to have been hired if the employer does not give notice to the employee upon expiration of the probationary period and the employee continues to work. However, it seems that such a conclusion is obvious.

## **7. Labor Contract**

### **7.1. Types of labor contracts**

Under the Labor Code, there are three types of labor contract:

- An indefinite term labor contract, in which the two parties do not predetermine the term or termination date of the contract;
- A definite term labor contract, in which the two parties determine the term and the termination date, within a period of 12 to 36 months; or
- A labor contract for a specific or seasonal job with duration of less than 12 months.

The Labor Code prohibits parties from signing labor contracts for a term of less than 12 months for a job that is regular and has a duration of 12 months or more, except in the case of the temporary replacement of an employee.<sup>15</sup> However, the Labor Code does not clarify when a job is considered regular.

When a definite term labor contract or a labor contract for a specific or seasonal job with a duration of less than 12 months expires, the parties must enter into a new labor contract within 30 days from the date of expiration if the employee continues working. Prior to signing a new labor contract, the parties must comply with the former contract.

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<sup>15</sup> See Art.22.3 of Labor Code.

If the new definite-term labor contract is signed within 30 days from the date of expiration, the parties may only sign one additional renewal contract. If the employee thereafter continues to work after the renewal expires, an indefinite term labor contract must be signed.

If a new labor contract has not been signed after 30 days from the date of expiration and if the employee continues working, the existing definite-term labor contract automatically becomes an indefinite-term labor contract, and the existing specific or seasonal contract automatically becomes a definite term labor contract with a term of 24 months.

The law permits an employer and employee to extend a definite term contract only one time by an appendix, provided that the contract term (including the newly extended term) does not exceed 36 months.

## **7.2. Forms of labor contracts**

Under Article 16 of the Labor Code, a labor contract must be in writing and it must include a duplicate, with each party retaining one copy, except a temporary labor contract of less than three months.

The Labor Code does not specify a standard form of contract, so an employer may prepare a draft of the labor contract for internal use, provided that the draft contains certain principal clauses as outlined in the attached **Annex I**<sup>16</sup>. This is not a mandatory form. It includes all required provisions but the format and content can be quite different. Additional provisions may be included.

## **7.3. Major employment terms and conditions**

Major employment terms, conditions and benefits are summarized in the attached **Schedule 2**.

## **7.4. Public policy**

Article 7 of the Labor Code states that “*the employment relationship between an individual employee or labor collective and an employer is established through discussion, negotiation and agreement on the principles of voluntary commitment, goodwill, fairness, co-operation, and mutual respect for legal rights and benefits.*” However, the Labor Code, in contrast, provides many terms and conditions that are compulsory in an employment relationship and that are not subject to negotiation or waiver by an employee or an employer. Those compulsory terms and conditions are discussed throughout this Manual. Generally, negotiation is permitted if the negotiated terms and conditions are not contrary to the law or are more favorable for an employee than the compulsory terms and conditions. Matters not limited by the law may permit a flexible approach, and the employer is free to negotiate with its employees and to include such matters in a labor contract and/or the internal labor rules.

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<sup>16</sup> Annex I prescribes main terms as regulated in Art.23.1 of Labor Code.

### **7.5. Local language**

The Labor Code does not specify whether a labor contract may be made in another language, nor does it state whether an employer and employee may agree on a bilingual labor contract in which Vietnamese is the primary language. In practice, the authorities will refer to the Vietnamese version of a bilingual labor contract in resolving labor-related matters.

### **7.6. Contracting with several employers**

While the Labor Code permits an employee to enter into labor contracts with multiple employers, it also obligates an employee to maintain the confidentiality of business and technological secrets. Still, an employer is entitled to enter into a written agreement with an employee on the scope of confidential topics, the period during which information must be kept confidential, and compensation if the employee breaches his obligation.

The Labor Code requires that all employers who enter into labor contracts with an employee, regardless of whether or not the employee is employed by another employer, must contribute or pay social insurance and health insurance. The details of this obligation are discussed in **Section 13**.

## **8. Working time and Overtime**

### **8.1 Working time**

Normal working time is limited to 8 hours per day and 48 hours per week. The Labor Code permits an employer to determine the working time on the basis of a week, but normal working time may not exceed 10 hours per day nor 48 hours per week.

Night working time is from 22:00 pm to 6:00 am.

### **8.2 Overtime working hours**

An employer and an employee may agree on overtime working hours, provided that the number of overtime hours is no more than 50% of the normal working hours per day, total working hours (including overtime) are no more than 12 hours per day, and total overtime hours are no more than 30 hours per month or 200 hours per year<sup>17</sup>. This yearly allowance, however, is increased to 300 hours per year in specific industries, such as garment and textiles, leather and shoes, and seafood processing, or to meet certain deadlines. Otherwise, if the employer wishes to increase yearly overtime working hours to 300 hours, approval of the authorities is required. The authorities must state the reason if approval is not granted.

The Labor Code permits an employer to require employees to work overtime at any time in the following cases: (i) to perform mobilization orders in respect of national defense and security in a state of emergency; (ii) to perform work to protect human life and property in the case of disasters, fire and epidemics.

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<sup>17</sup> See Art.106 of Labor Code.

### 8.3 Payment for overtime and night work

Employees who work overtime will be paid<sup>18</sup>:

- At least 150% of normal base salary for a normal work day;
- At least 200% of normal base salary for a weekly day off (eg, weekends);
- At least 300% of normal base salary on a public holiday or during fully paid leave days, excluding salary on such holidays and paid leave days.

Employees who work at night are entitled to an additional payment of 30% of the normal base salary for a each work day. In addition, for overtime work at night, they are entitled to the overtime payments listed above, as well as an additional 20% of the overtime salary that applies during the daytime.

Details on conditions and benefits in respect of overtime, breaktime and leave are discussed in **Schedule 2**.

## 9. Paid Leave

An employee is entitled to receive full salary during public holidays, annual leave, paid leave.

### 9.1 Public Holiday

The Labor Code provides the following holidays:

<b>Holiday</b>	<b>Date</b>
Solar New Year's Day	January 1
Lunar New Year	Five days (the two final days of the old lunar year and the first three days of the new lunar year)
Hung King's Day anniversary	March 10 (of the lunar year)
Victory Day	April 30
International Labor Day	May 1
Independence Day	September 2

Employees who are foreign citizens working in Vietnam, besides the holidays as prescribed above, also take an additional day of traditional New Year and one day to celebrate their country's National Day.

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<sup>18</sup> See Art.97 of Labor Code.

Where public holidays, as described above, coincide with a weekly day off, the employee is entitled to take the succeeding compensated day off instead.

If an employee agrees to work on a holiday, the employee will be paid overtime salary of at least 300% of normal salary.

## **9.2 Paid Leave**

An employee is entitled to leave with full salary in the following circumstances:

- Marriage: three days
- Marriage of employee's child: one day
- Death of employee's natural husband or wife; husband's or wife's parent; or employee's child: three days

## **9.3 Annual Leave**

An employee with 12 months of service is entitled to annual leave with full pay. Total annual leave entitlement is:

- 12 working days for an employee who works in normal working conditions;
- 14 working days for an employee who does heavy, noxious or dangerous work, or who works in a locality with harsh living conditions, or who is under 18 years of age;
- 16 working days for an employee who does especially heavy, noxious or dangerous work or who works in a locality with especially harsh living conditions.

An employee whose length of service is less than 12 months is entitled to annual leave proportional to the period of employment.

The employer is entitled to regulate the annual leave schedule after consulting with the employees and must give notice to employees. An employee can agree with the employer to take annual leave in installments by combining no more than annual leaves of three years into one leave.

When taking annual leave, if an employee must travel by road, railway or waterway and the number of days to go and return is over two, then from the third day on travel time is added to annual leave. This allowance applies to only one leave per year.

For every additional five years of service to the employer, the number of annual leave days shall be increased by one day.<sup>19</sup>

An employee who, due to termination of employment or for other reasons, fails to take his or her annual leave or has not used up all his or her annual leave, must be paid salary for those days not taken.

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<sup>19</sup> See Art.111 of Labor Code.

## 10. Unpaid Leave

Beside paid leave as specified above, an employee may take one day of unpaid leave upon the death of his or her grandparents or natural sibling, or when his or her parent or natural sibling gets married. In addition, the employee and employer may agree on other unpaid leave.

## 11. Maternity leave

Regulations on maternity benefits are provided in Chapter X of the Labor Code and in the Law on Social Insurance 2014. These regulations are further elaborated upon in Decree 115/2015/ND-CP dated November 11, 2015 (“**Decree 115**”) and Circular 59/2015/TT-BLĐTBXH dated December 29, 2015 (“**Circular 59**”).

### 11.1 Pregnancy and maternity leave benefits

An employee who is pregnant or gives birth is entitled to the following benefits:

- Five days off to attend five pregnancy examinations;
- In case of miscarriage, 10 days off work for a pregnancy of less than one month, 20 days for a pregnancy of one month to less than three months, 40 days for a pregnancy of three months to less than six months, and 50 days for a pregnancy of six months or more;
- Length of maternity leave:

<b>Conditions</b>	<b>Period of leave</b>
➤ Normal conditions	<ul style="list-style-type: none"> <li>• Six months</li> </ul>
➤ If the baby dies after birth	<ul style="list-style-type: none"> <li>• Four months from the date of death, if the baby dies at age 60 days or more;</li> <li>• Two months from the date of birth, if the baby dies before 60 days of age</li> </ul>
➤ If the employee gives birth to twins or other multiples	An additional month for each baby beyond a single birth

When the paid statutory maternity leave expires, a female employee is entitled to take from five to 10 days additional leave and is also entitled to receive a salary from the Social Insurance Fund equal to 30% of the basic salary. If the employer agrees, she may take additional, unpaid leave.

She may return to work prior to expiration of her permitted maternity leave if: (i) she has taken at least four months leave; and (ii) the employer agrees. In such case, the employee

continues to be entitled to maternity leave allowance in addition to her normal salary. Of note, if her working day is 14 days or more a month, both she and her employer are responsible to contribute to compulsory social insurance.

### **11.2. Maternity leave allowance**

The employee is entitled to be paid a maternity allowance by the Social Insurance Fund, provided that she has paid social insurance for at least six months during the twelve months immediately preceding maternity leave. The employer is responsible to assist the employee to obtain this allowance from the Social Insurance Fund.

The maternity leave allowance is equal to 100% of the average monthly salary during the last six months during which the female employee contributed to social insurance and two-months basic salary<sup>20</sup> per baby.

### **11.3. Working conditions**

A female employee is entitled to special working conditions while she is pregnant and while her baby is under 12 months of age:

- A female employee who has reached her seventh month of pregnancy and while her baby is under 12 months of age does not have to work overtime or at night or go on business trips to distant localities;
- A female employee who is normally employed doing heavy work and who has reached her seventh month of pregnancy must be transferred to a position with lighter duties; otherwise, she may work one hour less every day and continue to receive full pay; and
- A female employee with a baby below 12 months of age is entitled to a break of 60 minutes every day, while receiving full pay.

### **11.4. Termination of the labor contract of a female employee during maternity**

Unless the company ceases operation, an employer is not allowed to dismiss or unilaterally to terminate the labor contract of a female employee if she is pregnant, on maternity leave, or has a baby who is under 12 months of age.

### **11.5. Parental Leave**

A male employee whose wife deliveries a baby is entitled to take parental leave within 30 days from delivery, as below:

- Five working days;
- Seven working days if his wife delivers by surgery or if the baby is delivered within its first 32 weeks;
- 10 working days if his wife gives birth to twins; three working days for each baby beyond the second baby;

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<sup>20</sup> The basic salary from July 1, 2018 is VND 1,390,000 in equivalent to US\$62.

- 14 working days if his wife gives birth to twins by surgery.

## **12. Salary**

### **12.1. Regional minimum salary**

There are two types of minimum salary: regional minimum salary and minimum salary specific to an industry. The regional minimum salary is announced by the government based on minimum living needs of the employee and their family, social and economic conditions and salary in the labor market. The minimum salary in an industry may be determined through collective negotiation within industry and is specified in the industry's collective labor agreement. It may not be lower than the regional minimal salary announced by the government.

### **12.2. Wage Salary Scale**

An employer is responsible to formulate its Wage Salary Scale (“WSS”) in consultation with the trade union and to publish it in the company's workplace. The employer must register the WSS with the labor authority. The employer is free to set a scale of salary which is suitable for its business. However, the lowest WSS wage or salary must be at least 7% higher than the minimum regional salary.

### **12.3. Payment method**

The employer has the right to make salary payments on the basis of time, production or piece work. The form chosen must be maintained for a certain period; in case of change, the employer must notify the employee at least 10 days in advance.

### **12.4. Deductions from salary**

The employer may make deductions from salary as compensation for damages of tools and equipment. However, the amount deducted may not exceed 30% of monthly salary.

### **12.5. Bonus**

A bonus is an amount that the employer pays to reward employees. It takes annual results and performance of individual employees into account. A bonus is not compulsory. The employer is free to decide bonus policies and to announce them after consulting the representative organization of the labor collective.

## **13. Social security**

The Vietnamese social security system has three types of insurance: social insurance (“SI”), health insurance (“HI”) and unemployment insurance (“UI”). This section provides an overview of Vietnamese social security rules as they apply to both employers and employees.

### 13.1 Social insurance

Compulsory social insurance is mandated by the revised Law on Social Insurance 2014 (“**Law on SI 2014**”)<sup>21</sup>.

Compulsory SI applies to Vietnamese employees who work pursuant to indefinite term contracts or contracts with a term of at least three months. Since January 1, 2018, it has applied to a Vietnamese employee who works under an employment contract of one to three months<sup>22</sup>. Since December 1, 2018, compulsory SI also practically applies to a foreign employee who is licensed to work in Vietnam and enter into an indefinite-term labor contract or a definite-term labor contract with a term of at least one year with an employer based in Vietnam.<sup>23</sup>

The employee’s monthly salary on which SI contributions are based, is his salary plus salary-based allowances and other amounts. The salary used for SHUI contribution purposes, does not exceed 20 times the basic salary.<sup>24</sup>

Under the Law on SI 2014, SI benefits cover sickness, maternity, retirement and mortality.

### 13.2 Unemployment insurance

The unemployment insurance regime is set out in the Law on Employment 2013. The regime has since been elaborated upon in Decree 28/2015/ND-CP dated March 12, 2015. The UI regime applies to an employer that employs Vietnamese under indefinite term labor contracts or contracts with a duration of at least three months. The employer and employee both contribute to the UI fund.

UI compensates an employee who loses his job or who terminates his labor contract. UI benefits include: (i) an unemployment allowance, (ii) re-training vocational support, and (iii) job-search support.

The characteristics of unemployment compensation are similar to those of the severance or job loss allowance that an employer pays an employee upon termination of employment. In fact, unemployment compensation has partially replaced the severance or job loss allowance. Since January 1, 2009, seniority for severance or job loss allowance purposes stopped accruing for all Vietnamese employees who participate in the UI scheme. Any periods during which an employee and employer contribute to UI will not be taken into account when determining the employee’s severance or job loss allowance. There are some minor variations.

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<sup>21</sup>The revised Law on Social Insurance was promulgated on November 20, 2014, with effect from January 1, 2016.

<sup>22</sup>Contribution of Compulsory SI is not required if the working days of employees is less than 14 working days per month. See Art 85.3 Law on SI 2014.

<sup>23</sup>See Art 2 of Law on SI 2014 and Decree No.143/2018/ND-CP dated October 15, 2018 with effective from December 1, 2018.

<sup>24</sup> See Art.94.3 Law on SI 2014 and footnote no.17.

### **13.3 Health insurance**

Regulations on HI are provided in the Law on Health Insurance dated November 14, 2008 (“**Law on HI**”) and the amended Law on HI dated June 13, 2014. The Law on HI has been elaborated upon in Decree 62/2009/ND-CP dated July 27, 2009 (“**Decree 62**”) as amended by Decree 105/2014/ND-CP dated November 15, 2014.

Compulsory HI applies to both Vietnamese and foreign employees who have labor contracts of indefinite term or labor contracts with a duration of three months or more.

## **14. Withholding personal income tax**

Under the Law on Personal Income Tax (“**PIT**”) dated November 21, 2007, and the amended Law on Personal Income Tax dated November 22, 2012 (“**Law on PIT**”), an employer is obligated to withhold, on a monthly basis, PIT payable on the salaries and wages it pays to its employees.

The Law on PIT is elaborated upon by Decree 65/2013/ND-CP dated June 27, 2013 providing guidance on implementing the Law on PIT (“**Decree 65**”).

Under Decree 65, PIT taxable income includes:

- Salary/wages;
- Allowances and subsidies, including living allowances, subsidies for labor accidents and occupational diseases, one-off birth allowances, etc.;
- Certain commissions or remuneration for scientific research or patents, publication royalties, etc.;
- Remuneration for participation in professional or business associations, corporate boards of management or boards of supervisors, or project management boards;
- Monetary or non-monetary benefits other than salary, such as residential housing rent and payments for power, water and associated services; premiums for non mandatory insurance purchased by the employer for its employees; membership fees for cultural, artistic, professional and sports clubs, etc.;

Certain benefits are excluded from PIT, including one-off relocation allowances for expatriates moving to Vietnam, round trip air fares paid by the employer for its expatriate employees to return home each year, school tuition for the general education of the expatriate’s children in Vietnam, etc.

### **14.1 Residents, Non-residents**

Under the PIT regime, different tax rates apply to resident and non-resident employees. A person is a resident if he satisfies one of the following conditions:

- Is present in Vietnam for 183 or more days in a calendar year or for 12 consecutive months commencing from the first date of arrival in Vietnam. The date of arrival and the date of departure will each qualify as one day. Certification of the immigration authority in passports is the basis for determining dates of arrival and dates of departure; or

- Has a regular residential location, including a registered residence or leased house in Vietnam for a fixed term.

An individual who does not meet these conditions is treated as a non-resident.

*a) Resident employees*

Resident employees are subject to the following tax rates:

Level	Assessable income per year (VND million)	Assessable income per month (VND million)	Tax rate (%)
1	Up to 60	Up to 5	5
2	Above 60 to 120	Above 5 to 10	10
3	Above 120 to 216	Above 10 to 18	15
4	Above 216 to 384	Above 18 to 32	20
5	Above 384 to 624	Above 32 to 52	25
6	Above 624 to 960	Above 52 to 80	30
7	Above 960	Above 80	35

Under the Law on Personal Income Tax, resident employees are entitled to a “family tax deduction” comprising: (i) a tax deduction for the taxpayer of VND 9 million per month (VND 108 million per year); and (ii) tax deductions for each dependent of VND 3.6 million per month. However, the definition of a dependent is rather narrow.

Assessable income is taxable income less the following items:

- Insurance premiums for compulsory social insurance, compulsory medical insurance, compulsory professional indemnity insurance, and premiums for other compulsory insurance; compulsory insurance which an expatriate who resides in Vietnam must pay in accordance with the laws of his home country (eg, social insurance, medical insurance, or unemployment insurance) can also be deducted from a resident expatriate’s taxable income in Vietnam.
- Family tax deductions.
- Deductions for contributions to charitable or humanitarian causes or funds to encourage study.

*a) Non-resident employees*

A non-resident who receives taxable income arising in Vietnam is subject to a flat tax rate of 20% of the income from salary/wages without any deduction. There are clear rules on how to determine whether a person is a resident.

## 14.2 PIT declaration and finalization

The employer is required to file a PIT declaration with the tax authorities and pay any withheld PIT on a monthly basis. The employer must finalize PIT for its employees no later than the 90<sup>th</sup> day from the date the calendar year ends. Tax finalization is also required at the end of a resident expatriate’s employment contract, before his departure from Vietnam.

## **15. Termination of employment**

### **15.1 Automatic Termination**

The labor contract is automatically terminated in the following circumstances:

- labor contract expires;
- task stated in the labor contract is completed;
- employer and employee agree to terminate the labor contract;
- the employee satisfies the requirements of social insurance duration and pension age;
- the employee is sentenced to serve a jail term or is prevented from performing the job in accordance with a decision of a court; or the employee dies or is declared missing by a court;
- the employer, if an individual, dies, is declared dead, missing or incapable of civil acts by a court;
- the employer, if not an individual, ceases operation;
- the employee is dismissed by his employer as a consequence of labor discipline;

No procedure is required by law. However, in appropriate cases, the employer is obligated to pay a severance allowance to the employee. Details on termination of employment including automatic termination are discussed in **Schedule 4**.

### **15.2 Unilateral termination by employee**

An employee with a definite term labor contract is entitled to terminate a labor contract unilaterally when<sup>25</sup>:

- he is assigned a duty or assigned work at a location inconsistent with his labor contract; or the working conditions agreed to under his labor contract are not satisfied;
- he is not paid in full or on time as provided in his labor contract;
- he is maltreated or forced to do inappropriate tasks (eg, tasks that are inappropriate in terms of gender or may affect health or dignity);
- his family faces such difficulty that the employee is unable to continue to work under his labor contract (eg, moving to a locality from which commuting is difficult; moving abroad; caring for his spouse, parent, spouse's parent, or child, if ill for three months or more);
- he is appointed to a permanent position in a people's elective body or in a state authority;
- she is pregnant and must take rest as prescribed by a doctor; or
- he has suffered from an illness or accident and has been under treatment for three months but has not yet recovered his capacity to work.

The period of notice depends on each cause. For causes (a), (b), (c) and (g), three-day prior notice is required. For causes (d) and (e), a 30-day prior notice is required. For cause (f), the prior period of the notice depends on a doctor's prescription.

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<sup>25</sup> See Art. 37.1 of Labor Code.

An employee with an indefinite term labor contract is not required to give any reason to terminate unilaterally, but is required to give a 45-day notice.<sup>26</sup>

### 15.3 Unilateral termination by employer

The employer is entitled to terminate a labor contract unilaterally when:<sup>27</sup>

- the employee repeatedly fails to perform his or her work in accordance with the terms of his or her contract;
- the employee is ill and remains unable to work after a certain period of treatment;
- the employer must reduce production after taking measures to recover from an event of *force majeure*; or
- employee does not come to work after a temporary suspension<sup>28</sup> of his/her labor contract.

The notice must be given before termination:

- 45-day notice if the employee's labor contract has an indefinite term;
- 30-day notice if the employee's labor contract has a definite term of 12 months to 36 months; or
- three-working-day notice if the employee's labor contract is seasonal or has a term of less than 12 months.

There are circumstances in which an employer is unable to terminate a labor contract with its employee unilaterally, namely:<sup>29</sup>

- employee is suffering an injury caused by a work-related accident or occupational disease, and is receiving medical treatment from a healthcare organization;
- employee is on his or her annual leave, personal leave as permitted by law, or other kind of leave as agreed by the employer;
- a female employee if the grounds are marriage, pregnancy, maternity leave, or nursing a child under 12 months of age;<sup>30</sup> and
- employee is taking parental leave as permitted by law.

### 15.4 Financial obligation due to termination of the labor contract

Upon termination, the employer is obligated to pay:

- wages due up to the termination date;
- money equivalent to untaken annual leave;
- severance allowance, redundancy allowance (see discussion at Section 15.5);
- any contracted bonus; and
- amounts agreed in the labor contract.

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<sup>26</sup> See Art. 37.1 of Labor Code.

<sup>27</sup> See Art. 38 of Labor Code.

<sup>28</sup> See Art. 32 of Labor Code.

<sup>29</sup> See Art.39 of Labor Code.

<sup>30</sup> See Art.155.3 of Labor Code.

Within seven working days from the date of termination, both parties must pay sums due to each other. If agreed, the period can be extended up to 30 days.<sup>31</sup>

If the unilateral termination of a labor contract is unlawful, the employer is obligated to receive the employee back to his or her position and to pay:

- salary, social insurance and health insurance for the period the employee did not work.
- severance allowance if due;
- at least two months salary;
- severance allowance if due, in case the employee does not want to be re-employed; and
- at least two months additional salary in case the employer does not wish to receive the employee back and the employee agrees not to return.

An employee who unlawfully terminates his contract must pay employer:

- half month's salary; and
- training fees based on any vocational contract;

### **15.5 Severance allowance and Redundancy allowance**

A severance allowance is applicable to all cases of termination specified in Section 15.4, except for retirement, dismissal and unlawful termination of labor contract by an employee. As indicated below, the conditions for payment are much diminished since January 1, 2009 when unemployment insurance began. Severance allowance will be paid upon existence of all of the following circumstances:

- an employee has at least 12 full months of service;
- length of service as calculated by total length of service minus any period covered by unemployment insurance (after January 1, 2009);
- severance payment is one-half month's salary for each year of service;
- severance allowance is calculated based on the average contractual salary during the six months prior to termination.

A redundancy allowance is only applicable for retrenchment specified in Section 15.6.<sup>32</sup> Redundancy allowance will be paid upon existence of all of the following circumstances:

- an employee has at least 12 full months of service;
- length of service as calculated by total length of service minus the period covered by unemployment insurance (after January 1, 2009) and minus the period covered by severance allowance;
- redundancy payment is one month's salary for each year of service;
- redundancy allowance is calculated based on the average contractual salary during the six months prior to termination.

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<sup>31</sup> See Art.47.2 of Labor Code.

<sup>32</sup> See Art.49 of Labor Code.

## **15.6 Retrenchment**

### **15.6.1 Due to technological changes, reorganization or economic reasons**

*Retrenchment due to technological changes or organizational restructuring* means there have been changes in equipment, machinery, technology processes, or there has been a change such as a change in (i) organizational structure; (ii) products, product structure; or (iii) technological process, machinery, equipment.<sup>33</sup>

*Retrenchment for economic reasons* includes one of the following circumstances: (i) economic crisis or recession; or (ii) implementation of governmental policy on restructuring the economy or implementing international commitments.<sup>34</sup>

If it is necessary to terminate the labor contracts of two or more employees, the employer must together with the trade union prepare a labor usage plan. The labor usage plan must be sent to the local labor authority 30 days prior to termination of employment. See the discussion in Section 15.6.2.

As a consequence of such termination, the employee is entitled to a redundancy allowance. Calculation is described in Section 15.5 above.

### **15.6.2 Due to merger, consolidation, division, separation or sale of the employer's assets**

Rules on retrenchment due to merger, consolidation, division, separation, or sale of the employer's assets<sup>35</sup> require the employer to work out a labor usage plan, in order, if possible, to employ its employees after the event. Such plan will include the following:

- number of employees who will continue to be employed;
- number of employees who will be re-trained for employment in another position;
- number of employees who will be retired;
- number of employees who will be transferred to part-time jobs;
- number of employees whose labor contracts must be terminated; and
- proposals to pay retraining costs, allowances and other benefits to the affected employees.

The trade union at the enterprise level (if there is one) must participate with the employer to prepare the plan. As a consequence of termination for retrenchment, the employee is entitled to a redundancy allowance. The calculation is described in Section 15.5 above.

In case of merger and acquisition, the new employer is responsible to create the labor usage plan; but in case of transfer of assets, the old employer is responsible to create the plan.

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<sup>33</sup> See Art. 13.1 of Decree 05/2015/ND-CP dated January 12, 2015 (“**Decree 05**”).

<sup>34</sup> See Art.13.2 of Decree 05.

<sup>35</sup> See Art.45 of Labor Code.

## **16. Retirement**

Article 187 of the Labor Code, the Law on Social Insurance, Decree 115 and Circular 59 regulate retirement. Rules on the retirement regime are summarized in **Schedule 3**.

## **17. Labor Discipline**

### **17.1. Rules on handling labor discipline**

When handling of a breach of labor discipline, the employer must follow certain rules<sup>36</sup>:

- the employer must prove the employee's fault;
- a representative of the trade union must attend pertinent meetings;
- the employee must be present and may defend himself or ask a lawyer or another person to defend himself. If the employee is under 18 years old, his parent or at-law representative must participate;
- the handling of the violation of labor discipline must be recorded in minutes and be signed by all participants including the employee;
- it is prohibited to impose more than one form of discipline for a single breach of labor discipline.
- for an employee who simultaneously commits more than one breach of labor discipline, only the highest form of discipline corresponding to the most serious violation can be applied.

If the employer determines that it will be difficult to investigate a violation while the violated employee continues to work, the employer may suspend him with pay during the investigation.

### **17.2. Forms of labor discipline**

Depending on the seriousness of the violations as provided under the internal labor regulations, the employer may consider applying one of three levels of sanctions, namely:

- Reprimand.
- Prolongation of the wage increase period, but for no more than six months; demotion.
- Dismissal.

The employer is strictly required to observe the rules on handling labor discipline. A labor discipline will be automatically absolved if the employee does not commit again the breach for labor discipline which was applied within a certain period, particularly:

- three months for a reprimand;
- six months for a prolongation of a wage increase;

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<sup>36</sup> See Art.123 of Labor Code.

- three years for a demotion.

### **17.3. Dismissal**

The employer may terminate an employment relationship by way of dismissal which is a form of discipline. It may do so in the following circumstances:

- An employee commits an act of theft, embezzlement, gambling, intentional infliction of injury, use of drugs inside the workplace, disclosure of technological or business secrets or infringement of intellectual property rights of the employer, or commits acts which cause serious damage or threaten to cause serious damage to the assets or interests of the employer;
- An employee repeatedly commits the breach on which a prolongation of the wage increase or demotion have been imposed and the sanction is still in effect; or
- An employee has been absent from work without permission or a plausible reason for a total of five working days within 30 days from the first absence or 20 days within 365 days from the first absence.

An employer is responsible for an unlawful dismissal as prescribed in Section 15.4.

### **17.4. Prohibited conduct when dealing with labor discipline**

Labor discipline may not be imposed on an employee who is<sup>37</sup>:

- taking illness or convalescence leave or is on leave with the employer's consent;
- in custody or temporary detention;
- waiting for results of verification and conclusion of a competent agency for acts of theft, embezzlement, gambling, intentional infliction of injury, use of drugs inside the workplace;
- a female employee who is pregnant or on maternity leave or rearing a child under 12 months of age.
- suffering a mental disorder or another disease which deprives him of the capacity to perceive or control his acts.

During the period that labor discipline is imposed, the employer is prohibited from:<sup>38</sup> (i) infringing on the employee's dignity; (ii) applying a fine or wage reduction instead of a disciplinary measure; and (iii) disciplining an employee for a violation which is not defined in the internal labor regulations. See Section 20.

## **18. Compensation for damages**

An employee who causes damage to tools and equipment or the employer's assets must pay compensation. In case of negligence, an employee causes minor damage valued at less than 10 months' regional minimum salary<sup>39</sup>, the employee is obligated to pay compensation up to three months salary. The compensation can be deducted monthly from

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<sup>37</sup> See Art 123.3 and Art 123.5 of Labor Code.

<sup>38</sup> See Art.128 of Labor Code.

<sup>39</sup> The regional minimum salary is defined in Section 12.1 of this Manual.

his salary. However, the deduction must comply with the requirements as discussed in Section 12.4.

## **19. Non-disclosure, non-competition and non-solicitation of employees, customers and suppliers**

### **19.1 Non-disclosure agreement**

The Labor Code allows an employer and employee to enter into an agreement that prohibits the disclosure of business secrets, technological secrets, and other matters when the employee is involved in a job that directly relates to such business and/or technological secrets. The scope of such secrets as well as the rights and obligations of the employee can be outlined in a non-disclosure agreement (“**NDA**”). The NDA can be a part of the labor contract or it can be separate contract. If the NDA is a part of the labor contract, the NDA may not be enforceable after the labor contract is terminated. To protect business secrets after employment ends, an employer should consider having an NDA that is separate from the labor contract. In such case, the NDA is considered as a civil agreement covered by the Civil Code, and so will survive termination of employment.

The employer can incorporate acts which are considered to be a breach of the NDA in its internal labor rules (“**ILRs**”) to prohibit its employees from disclosing its business secrets. During the course of employment, an employee must comply with any provisions on intellectual property recorded in the ILRs. However, the ILRs do not apply after employment terminates.

### **19.2 Non-competition agreement**

An employer may want to prohibit its employees from working for another company during the course of employment and after the employment ends. An agreement to this effect is called a non-competition agreement (“**NCA**”). While the Labor Code is silent on the enforceability of an NCA, there are some measures that can be taken to prevent an employee from working for another employer during the term of his employment. The first measure is to incorporate into the company’s ILRs a clause which states that an employee must provide the employer with written notice in advance if he accepts a job from another employer. In addition, failure to provide notice is a breach of labor rules and it is subject to disciplinary actions. These provisions can only be enforced if the ILRs so provide and if they are registered.

However, ILRs are no longer applicable after an employee leaves. Another measure is that the employer and employee may enter into an NDA which is separate from the labor contract. In such a case the NDA does not expire when the employment relationship ends, because a separate agreement is subject to the Vietnamese Civil Code.

### **19.3. Non-solicitation agreement**

An employer may want to prevent its employees from soliciting its employees, customers and suppliers during the course of employment as well as after employment ends. To address the matter in part, an employer should include rules against solicitation in its ILRs. In this way, the employer can apply labor discipline. However, the employer can do so

only during the labor contract because the ILRs do not apply after the termination of employment.

The employer can enter into a non-solicitation agreement (“NSA”) which is separate from the labor contract and like an NDA and NCA as discussed above, is considered to be a civil agreement.

## **20. Internal Labor Regulations**

Internal Labor Regulations are mandatory for an employer which has more than 10 employees. The employer must register its ILRs with the labor authorities and post them in the workplace.

The ILRs must include the following major components:

- Working hours and rest breaks;
- Rules and discipline in the company;
- Occupational safety and hygiene in the workplace;
- Protection of assets and confidentiality of technology and business secrets of the company; and
- Conduct that is in breach of labor regulations, penalties imposed for those breaches, and responsibility for damages.

Carefully worded ILRs will enable the employer to take disciplinary action against an employee or unilaterally to terminate a labor contract in the case of poor performance by an employee. If an offense is not specified in a company’s ILRs, or if the company does not have duly registered ILRs, it will be difficult to dismiss an employee. Attention should be paid to contents and registration.

## **21. Trade Unions**

A Trade Union is an organization which represents the Vietnamese employees to protect their rights and interests. An internal trade union can be established at the workplace if there are at least five Vietnamese employees who wish to organize it. The employer must facilitate establishment. A foreign employee cannot be a member of a trade union.

The employer is also required to make contributions of trade union fees regardless of whether an internal trade union is established. The rate of contribution is equal to 2% of the employee salary<sup>40</sup>. A Vietnamese employee who is a member of an internal trade union must contribute to trade union fees of at least 1% of the basic salary<sup>41</sup>

The rights of union officers have been increased under the Law on Trade Unions 2012. For example, if the labor contract of an employee who is a part-time union officer expires while he is serving as a of trade union officer, his labor contract must be extended until expiration of the trade union officer’s term.<sup>42</sup>

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<sup>40</sup> See Art.26 of Law on Trade Union 2012.

<sup>41</sup> See the basic salary in footnote no.17.

<sup>42</sup> See Art.25.1 of the Law on Trade Unions 2012.

## **22. Dialogue in the workplace**

The Labor Code requires the employer to encourage dialogue in the workplace. The purpose of the dialogue is for employees to share information and create better understanding between employer and employees. The dialogue can take many forms. Discussions are required at least every three months or by request of either the employer or the employees' labor representative (ie, the appropriate trade union).

The dialogue may include:

- The employer's production and business;
- Performance of labor contracts, collective labor agreement, ILRs, and other internal regulations, undertakings, and arrangements at the workplace;
- Working conditions;
- Requests of the employer to the employees and the labor collective; and
- Other matters in which the employer and employees are interested

## **23. Collective negotiations and Collective Labor Agreements**

Based on the belief that collective negotiations build a good labor relationship, shape new labor conditions and resolve difficulties, the Labor Code grants either the employer or employees the right to request collective negotiations. Collective negotiations may involve the following: (i) salaries, bonuses, allowances, pay raises; (ii) working hours, rest time, overtime working hours, breaks between shifts; (iii) assurances in connection with the employees' jobs; (iv) assurances of labor safety, occupational health and compliance with internal labor rules; and (v) other matters.

Collective negotiations may be conducted at the industry or the company level. Neither the employer nor the employee is allowed to refuse a request for collective negotiations initiated by the other party. If a party refuses the request for collective negotiations, the other party is entitled to treat the matter as a labor dispute.

A Collective Labor Agreement ("CLA") is a written agreement between the employees and the employer after successful collective negotiations. A CLA is not mandatory. If there is a CLA, the employer must send one set of the signed CLA to labor authorities within 10 days from the execution date.

A term of the CLA has a term of one to three years. If a CLA is entered into for the first time in an enterprise, it may have a term of less than one year. Each party is entitled to request the CLA to be amended, but only after six months from the date of the CLA's execution.

## **24. Vocational training**

According to the Labor Code, an employer can directly or indirectly organize vocational training for its employees before signing a labor contract and during the course of employment.

A vocational training contract between the employer and employee is required. The contract must include the following terms, such as occupation for which training is provided, location and period, cost of training, period during which employee commits to work for the employer after finishing the training course, responsibility of employer to compensate for training costs.

In order to avoid misunderstanding, parties should consider specifying the position to which the employee will be assigned, new salary and date on which the employee will start working after the training.

An employee is obligated to refund training costs if he breaches the terms by unlawfully terminating the labor contract.

While a commercial vocational training center must have an appropriate license to provide vocational training, an employer is not required to have a vocational training license when training its own employees.

## **25. Compulsory worker's compensation or compulsory insurance schemes for work-related accidents**

An injured employee is entitled to receive work-related accidents compensation that will be paid by the employer and/or the Social Insurance Fund. See detail in **Schedule 5**.

### **25.1. Compensation by the employer**

If a work-related accident occurs, the employer must pay the injured employee as follows:

- all medical expenses incurred from the point that first aid or emergency treatment is provided until completion of the medical treatment. It can be reduced if the employer participated in compulsory health insurance for its employees;
- full salary to the injured employee during the period he is absent from work for medical treatment;
- compensation or allowance depending on the percentage of reduced working capacity. See detail in **Part I of Schedule 5**. It can be reduced if the employer participated in private insurances for its employees.

If the employer has not participated in compulsory social insurance, the employer will be responsible to pay compensation equal to what the Social Insurance Fund would pay the injured employee had he been covered.

Furthermore, the employer is prohibited to unilaterally to terminate the labor contract of an injured employee during the period of medical treatment, unless the employee remains unable to work after receiving treatment for a certain period of time (see **Schedule 4**).

## **25.2. Allowances paid by the Social Insurance Fund**

In addition to compensation from the employer as discussed above, an employee injured in a work-related accident is entitled to an allowance paid by the Social Insurance Fund.

If an employer has not made a compulsory contribution to the Social Insurance Fund, as discussed in Section 13, it must pay the injured employee an allowance equal to the amount that would have been paid by the Social Insurance Fund. The scale of this allowance is summarized in **Part II of Schedule 5**. This payment is in addition to other compensation discussed previously in this Section.

## **26. Labor disputes**

Disputes may be between an individual employee and his employer, or they may be collective labor disputes. There are two forms of collective labor dispute: (a) dispute regarding employee rights, which is a dispute between a group of employees and their employer regarding implementation of the labor law, the collective labor agreement, or ILRs that have been registered with the labor authorities; and (b) disputes involving employees' interests. The latter form usually involves a dispute between a group of employees and their employer in which the employees request that the employer give them new, different, better labor conditions relating to salary, bonuses, working time, or other benefits.

### **26.1. Labor dispute resolution**

Resolution of most individual labor disputes must first be attempted by the company's mediation council or a labor mediator. If the attempt fails, disputes may be resolved by the appropriate court. However, certain kinds of individual labor disputes, such as disputes regarding dismissal, unilateral termination of a labor contract, and payment of allowances in the case of termination, may be taken directly to a court.

Collective labor disputes involving employees' rights may be resolved by:

- A labor mediator;
- Chairman of the People's Committee at the district level; and/or
- The relevant court.

Resolution of collective labor disputes that involve employees' rights must be carried out in the above order (ie, aggrieved employees must exhaust remedies at one level before proceeding to the next).

Collective labor disputes involving employees' interests may be resolved by:

- A labor mediator; and/or;
- A council of labor arbitrators established by the People's Committee at the provincial level.

Resolution of collective labor disputes involving employees' interests must be carried out in the above order. In cases where resolution by a council of labor arbitrators fails, the employees have the right to go on strike.

## **27. Strikes**

Legal strikes must be carried out in accordance with a process set forth in the law. A strike must be organized and led by an internal trade union, or for cases in which an internal trade union has not been established, by a public trade union at a superior level.

A strike is illegal if:

- It does not arise from a collective labor dispute involving employees' interests;
- The people on strike do not all work for the same company;
- Attempts to resolve the collective labor dispute either have not been made, or the dispute is in the process of resolution;
- It occurs at an enterprise that is on the list of enterprises for which strikes are not allowed, such as enterprises in the following industries: electricity, petrol and gas, aviation, shipping, telecommunications, water supply and discharge, environmental hygiene, and national security; or
- There has been a decision to suspend or discontinue the strike.

A notice must be sent to the employer, the labor authority and public trade union at least five working days prior to the strike. The employer is entitled temporarily to close the work place before and during the strike.

During a strike or within three months from the conclusion of a strike, the internal trade union, the trade union at the superior level, and the employer each have the right to request that the relevant provincial court consider the legality of the strike. If the court concludes that a strike is illegal, the internal trade union, the trade union at the superior level, or the employees themselves may be required to pay damages to the employer.

The Labor Code provides a special procedure to resolve a strike that breaches orders and procedures regulated in Article 212 and Article 213 of the Labor Code. That is, the Chairman of the People's Committee at the provincial level is entitled to declare that a strike is improper, in which case he must notify the Chairman of the People's Committee at the district level. Within 12 hours from the time he receives the notification, the Chairman of the People's Committee at the district level, together with the district labor authority and the trade union at the same level, must meet with the employer and the employees in order to resolve the dispute.

## **28. Transfer of business**

According to Article 45 of the Labor Code, if a company undergoes a change, including a merger, consolidation, division, split, or transfer of ownership, or transfers the right to manage or use its assets, the successor company must sustain the existing labor contracts of the employees. That is, the terms and conditions of employment that existed before the change will survive the change. No severance or redundancy allowances are paid to an employee if he continues to be employed. If there is a retrenchment as a consequence of a

transfer of business, the current employer or its successor, depending on the specific situation, is required to have a labor use plan after consulting with the trade union or other organization that represents the employees in the company.

## 29. Labor outsourcing

The term “labor outsourcing”, as defined in the Labor Code, means an arrangement involving “*an employee who is employed by a labor outsourcing enterprise, and is assigned to work for another organization, is subject to the management of the latter organization but remains under the labor relationship with the labor outsourcing enterprise*”.<sup>43</sup>

Labor outsourcing provides a channel to engage skilled employees in order to secure and meet a manpower requirement, especially for a temporary increase of production or for other temporary positions. However, labor outsourcing is conditional under the Labor Code. Among other things, labor outsourcing enterprises must have a specific license, issued by MOLISA,<sup>44</sup> and must maintain a deposit of two billion Vietnamese dong. The types of jobs available for labor outsourcing are limited, and the maximum term for labor outsourcing is 12 months.

Conditions to receive a labor outsourcing license and a list of the types of jobs that may be outsourced are provided in **Schedule 6**.

The Labor Code also requires the labor outsourcing enterprise to perform the obligations of an employer vis-a-vis the employees it provides to other organizations. These obligations include the payment of salaries, unused leave, suspension and severance allowance, redundancy allowance and mandatory social, health and unemployment insurance.

The salary of an outsourced employee must not be less than the salary of an employee with the same professional qualifications performing the same or a similar job at the organization using the services. At any point, the organization using the services may agree with the employee and the labor outsourcing enterprise to recruit the employee.

The Labor Code requires the outsourced employee to obey the internal labor rules of the organization using the service. However, the organization using the service is not entitled to impose disciplinary actions on the outsourced employee. It can only send the employee back to the labor outsourcing enterprise, which is authorized to discipline the employee.

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<sup>43</sup> See Art.53.1 of Labor Code.

<sup>44</sup> See Art.13 of Decree 55/2013/ND-CP dated November 15, 2014.

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**SCHEDULE 1: LIST OF LABOR REGULATIONS****A. List Of Current Cited Laws, Decrees, Circulars and Regulations**

<b>No.</b>	<b>Name of legal documents</b>	<b>Issued by</b>	<b>Issued on</b>
1.	Constitution 2013	National Assembly	November 28, 2013
2.	Civil Procedures Code 2015	National Assembly	June 15, 2004
3.	Civil Code 2015	National Assembly	June 14, 2005
4.	Law on Enterprises 2014	National Assembly	November 29, 2005
5.	Law on Personal Income Tax 2007 (as amended in 2012 and 2013)	National Assembly	June 29, 2006
6.	Law on Health Insurance 2008 (as amended in 2014)	National Assembly	November 21, 2007
7.	Labor Code	National Assembly	June 20, 2012
8.	Law on Trade Union 2012	National Assembly	June 18, 2012
9.	Law on Employment 2013	National Assembly	November 16, 2013
10.	Law on Social Insurance 2014	National Assembly	November 20, 2014

No.	Name of legal documents	Issued by	Issued on
11.	Decree 41/2013/ND-CP Providing Details of Article 220 of the Labor Code on list of enterprises which are not permitted to go on strike and resolving requests of labor collective in enterprises which are not permitted to go on strike	Government	May 8, 2013
12.	Decree 43/2013/ND-CP Providing Details of Article 10 on the Law on Trade Unions regarding rights and responsibilities of a trade union to represent and protect the rights and benefits of employees	Government	May 10, 2013
13.	Decree 44/2013/ND-CP Providing Details and Guiding on the Implementation of a number of Articles of the Labor Code on Labor Contracts	Government	May 10, 2013
14.	Decree 45/2013/ND-CP Providing Details on a number of Articles of the Labor Code on working time, rest time, labor safety and hygiene	Government	May 10, 2013
	Decree 39/2016/ND-CP Providing Details on occupational safety and sanitation (amended Article 9 to 14 of Decree 45/2013)	Government	May 15, 2016
	Decree 44/2016/ND-CP Providing Details on occupational safety and sanitation, inspection of occupational safety, training for the occupational safety and sanitation and monitoring of occupational environment (amended Article 15 to 24 and Article 25.1.d of Decree 45/2013)	Government	May 15, 2016

No.	Name of legal documents	Issued by	Issued on
15.	Decree 46/2013/ND-CP Providing Details and Guiding on Implementation of a number of Articles of the Labor Code on labor disputes	Government	May 10, 2013
16.	Decree 49/2013/ND-CP Providing Details of a number of Articles of the Labor Code on salary	Government	May 14, 2013
17.	Decree 55/2013/ND-CP Providing Details on a number of Articles of the Labor Code on labor outsourcing	Government	May 22, 2013
	Decree 73/2014/ND-CP amends article 29 of Decree 55/2013 and implement Article 54.3 of the Labor Code on licensing outsourcing services, deposit payment, and list of permissible outsourced job	Government	July 23, 2014
18.	Decree 60/2013/ND-CP providing clarifications of the Labor Code implementing regulations on democracy in the workplace	Government	June 19, 2013
19.	Decree 65/2013/ND-CP Providing Guidance on Implementation of the Law on Personal Income Tax	Government	June 27, 2013
	Decree 12/2015/ND-CP Providing Guidance on Implementation of the Law on amendments to Tax Laws (annulled Article 7 to Article 21 and regulations on business income in Article 12 to Article 14 of Decree 65/2013	Government	February 12, 2015

No.	Name of legal documents	Issued by	Issued on
20.	Decree 95/2013/ND-CP Providing administrative sanctions in a range of categories: labor, social insurance, and arrangement of a Vietnamese employee working overseas on a contract basis. Some articles are amended by Decree 88/2015/ND-CP dated October 7, 2015	Government	August 22, 2013
21.	Decree 03/2014/ND-CP Providing Details on a number of Articles of the Labor Code on employment	Government	January 16, 2014
22.	Decree 05/2015/ND-CP Providing Details on a number of Articles of the Labor Code and Decree 148/2018/ND-CP to amend and supplement some articles of Decree 05/2015.	Government	January 12, 2015
23.	Decree 28/2015/ND-CP Providing Details and Guiding Implementation of a number of Articles of the Law on Employment on Unemployment Insurance	Government	March 12, 2015
24.	Decree 115/2015/ND-CP Providing Details and Guiding Implementation of a number of Articles of the Law on Social Insurance on Compulsory Social Insurance	Government	November 11, 2015
25.	Decree 11/2016/ND-CP Providing Guidance on expatriates working in Vietnam and Decree 140/2018/ND-CP to amend some articles of Decree 11/2016/ND related to work permit	Government	February 3, 2016
26.	Decree 47/2017/ND-CP Providing for National Basic Salary	Government	April 24, 2017

No.	Name of legal documents	Issued by	Issued on
27.	Decree 141/2017/ND-CP Providing for Regional Minimum Salary	Government	December 7, 2017
28.	Decree 121/2018/ND-CP to amend and supplement some articles of Decree 49/2013	Government	September 13, 2018
29.	Decree 140/2018/ND-CP to amend and supplement some investment conditions and administrative procedures under MOLISA's authority	Government	October 8, 2018
30.	Decree 143/2018/ND-CP Providing for contribution of compulsory social insurance for foreign employees	Government	October 15, 2018
31.	Decree 148/2018/ND-CP to amend and supplement some articles of Decree 05/2015	Government	October 24, 2018
32.	Decree 148/2018/ND-CP providing details on Article 63.3 of Labor Code regarding democracy policy at workplace	Government	November 7, 2018
33.	Circular 08/2013/TT-BLDTBXH Guiding Decree 46/2013/ND-CP on labor disputes	MOLISA	June 10, 2013
34.	Circular 30/2013/TT-BLDTBXH Guiding Decree 44/2013/ND-CP on labor contract	MOLISA	October 25, 2013
35.	Circular 1/2014/TT-BLDTBXH Guiding Decree 55/2013/ND-CP on labor outsourcing	MOLISA	January 8, 2014
36.	Circular 40/2014/TT-BLDTBXH Guiding Decree 55/2013/ND-CP on payment and management of deposits made by outsourcers	MOLISA	December 11, 2014

<b>No.</b>	<b>Name of legal documents</b>	<b>Issued by</b>	<b>Issued on</b>
37.	Circular 47/2015/ TT-BLDTBXH Guiding Decree 05/2015/ND-CP on labor contract	MOLISA	November 16, 2015
38.	Circular 54/2015/ TT-BLDTBXH Guiding Decree 45/2013/ND-CP on working time	MOLISA	November 16, 2015
39.	Circular 59/2015/ TT-BLDTBXH Guiding Decree 115/2015/ND-CP on compulsory	MOLISA	December 29, 2015

**B. List Of Current Cited Laws, Decrees, Circulars and Regulations Classified by Subject**

<b>No.</b>	<b>Issue</b>	<b>Name of legal documents</b>	<b>Issued by</b>	<b>Issued on</b>
1.	<i>Main statutes dealing with employment</i>	<ul style="list-style-type: none"> <li>• Labor Code</li> <li>• Decree 102/2013/ND-CP Providing Guidance on expatriates working in Vietnam</li> </ul>	National Assembly Government	June 18, 2012 September 5, 2013
2.	<i>Forming a labor contract</i>	<ul style="list-style-type: none"> <li>• Labor Code;</li> <li>• Decree 05/2015/ND-CP Providing Details on a number of Articles of the Labor Code;</li> <li>• Decree 148/2018/ND-CP to amend and supplement some articles of Decree 05/2015</li> </ul>	National Assembly Government Government	June 18, 2012 January 12, 2015 October 24, 2018
3.	<i>Probation</i>	<ul style="list-style-type: none"> <li>• Labor Code</li> <li>• Decree 05/2015/ND-CP Providing Details on a number of Articles of the Labor Code;</li> <li>• Decree 148/2018/ND-CP to amend and supplement some articles of Decree 05/2015</li> </ul>	National Assembly Government Government	June 18, 2012 January 12, 2015 October 24, 2018
4.	<i>Overtime</i>	<ul style="list-style-type: none"> <li>• Labor Code</li> <li>• Decree 45/2013/ND-CP Providing Details on a number of Articles of the Labor Code on working time, rest time and labor safety and hygiene</li> <li>• Decree 05/2015/ND-CP Providing Details on a number of Articles of the Labor Code</li> <li>• Circular 54/2015/TT-BLDTBXH</li> </ul>	National Assembly Government Government	June 18, 2012 May 10, 2013 January 12, 2015

No.	Issue	Name of legal documents	Issued by	Issued on
5.	<i>Social Security</i>	<ul style="list-style-type: none"> <li>• Law on Social Insurance 2014</li> <li>• Decree 115/2015/ND-CP</li> <li>• Law on Health Insurance 2008 (as amended in 2014)</li> </ul>	National Assembly Government National Assembly	November 20, 2014 November 11, 2015 November 14, 2008
6.	<i>Other Withholdings</i>	<ul style="list-style-type: none"> <li>• Law on Personal Income Tax 2007 (as amended in 2012 and 2013)</li> <li>• Decree 65/2013/ND-CP Providing Guidance on Implementation of the Law on Personal Income Tax</li> </ul>	National Assembly Government	November 21, 2007 June 27, 2013
7.	<i>Maternity</i>	<ul style="list-style-type: none"> <li>• Labor Code</li> <li>• Law on Social Insurance 2014</li> <li>• Decree 115/2015/ND-CP</li> <li>• Circular 59/2015/TT-BLDTBXH</li> </ul>	National Assembly National Assembly Government MOLISA	June 18, 2012 November 20, 2014 November 11, 2015 December 29, 2015
8.	<i>Retirement</i>	<ul style="list-style-type: none"> <li>• Law on Social Insurance 2014</li> <li>• Decree 115/2015/ND-CP</li> <li>• Circular 59/2015/TT-BLDTBXH</li> </ul>	National Assembly Government MOLISA	November 20, 2014 November 11, 2015 December 29, 2015
9.	<i>Disciplinary Action</i>	<ul style="list-style-type: none"> <li>• Labor Code</li> <li>• Decree 05/2015/ND-CP Providing Details on a number of Articles of the Labor Code;</li> <li>• Decree 148/2018/ND-CP to amend and supplement some articles of Decree 05/2015;</li> <li>• Circular 47/2015/TT-BLDTBXH</li> </ul>	National Assembly Government Government MOLISA	June 18, 2012 January 12, 2015 October 24, 2018 November 16, 2015

No.	Issue	Name of legal documents	Issued by	Issued on
10.	<i>Termination of Employment</i>	<ul style="list-style-type: none"> <li>• Labor Code</li> <li>• Decree 05/2015/ND-CP Providing Details on a number of Articles of the Labor Code</li> <li>• Decree 148/2018/ND-CP to amend and supplement some articles of Decree 05/2015;</li> <li>• Circular 47/2015/TT-BLDTBXH</li> </ul>	National Assembly Government  Government  MOLISA	June 18, 2012 January 12, 2015  October 24, 2018  November 16, 2015
11.	<i>Dismissal</i>	<ul style="list-style-type: none"> <li>• Labor Code</li> <li>• Decree 05/2015/ND-CP Providing Details on a number of Articles of the Labor Code;</li> <li>• Decree 148/2018/ND-CP to amend and supplement some articles of Decree 05/2015;</li> <li>• Circular 47/2015/TT-BLDTBXH</li> </ul>	National Assembly Government  Government  MOLISA	June 18, 2012 January 12,2015  October 24, 2018  November 16, 2015
12.	<i>Retrenchment or Redundancy</i>	<ul style="list-style-type: none"> <li>• Labor Code</li> <li>• Decree 05/2015/ND-CP Providing Details on a number of Articles of the Labor Code;</li> <li>• Decree 148/2018/ND-CP to amend and supplement some articles of Decree 05/2015</li> </ul>	National Assembly Government  Government	June 18, 2012 January 12,2015  October 24, 2018
14.	<i>Restraint of Trade/Non-compete</i>	<ul style="list-style-type: none"> <li>• Labor Code</li> </ul>	National Assembly	June 18, 2012
15.	<i>Non-solicitation of Employees, Customers and Suppliers</i>	<ul style="list-style-type: none"> <li>• Labor Code</li> </ul>	National Assembly	June 18, 2012
16.	<i>Confidentiality</i>	<ul style="list-style-type: none"> <li>• Labor Code</li> </ul>	National Assembly	June 18, 2012

No.	Issue	Name of legal documents	Issued by	Issued on
17.	<i>Drug and Alcohol Testing, Police and Criminal Background Checks and General Medical Testing</i>	<ul style="list-style-type: none"> <li>• Labor Code</li> </ul>	National Assembly	June 18, 2012
18.	<i>Annual Leave</i>	<ul style="list-style-type: none"> <li>• Labor Code</li> <li>• Decree 45/2013/ND-CP Providing Details on a number of Articles of the Labor Code on working time, rest time, labor safety and hygiene</li> </ul>	National Assembly Government	June 18, 2012 May 10, 2013
19.	<i>Unions</i>	<ul style="list-style-type: none"> <li>• Labor Code</li> <li>• Law on Trade Union 2012</li> <li>• Decree 43/2013/ND-CP Providing Details on Article 10 of the Law on Trade Union regarding rights and responsibilities of a trade union to represent and protect the rights and benefits of employees</li> </ul>	National Assembly National Assembly Government	June 18, 2012 June 20, 2012 May 10, 2013
20.	<i>Collective Labor Agreements ("CLA")</i>	<ul style="list-style-type: none"> <li>• Labor Code</li> <li>• Decree 60/2013/ND-CP Providing clarification of Article 63.3 of the Labor Code on implementing regulations on democracy in the workplace                             <ul style="list-style-type: none"> <li>• Decree 05/2015/ND-CP Providing Details on a number of Articles of the Labor Code;</li> <li>• Decree 148/2018/ND-CP to amend and supplement some articles of Decree 05/2015</li> </ul> </li> </ul>	National Assembly Government Government Government	June 18, 2012 June 19, 2013 January 12, 2015 October 24, 2018

No.	Issue	Name of legal documents	Issued by	Issued on
21.	<i>Compulsory Workers' Compensation or Compulsory Insurance Scheme for Work-related Accidents</i>	<ul style="list-style-type: none"> <li>• Labor Code</li> <li>• Decree 45/2013/ND-CP Providing Details on a number of Articles of the Labor Code on working time, rest time, labor safety and hygiene;</li> <li>• Law on Social Insurance 2014</li> </ul>	National Assembly  Government  National Assembly	June 18, 2012  May 10, 2013  November 20, 2014
22.	<i>Employee Handbook or Internal Labor Rules (ILRs)</i>	<ul style="list-style-type: none"> <li>• Labor Code</li> <li>• Decree 05/2015/ND-CP Providing Details on a number of Articles of the Labor Code</li> </ul>	National Assembly  Government	June 18, 2012  January 12, 2015
23.	<i>Labor Disputes</i>	<ul style="list-style-type: none"> <li>• Labor Code</li> <li>• Decree 46/2013/ND-CP Providing Details and Guiding Implementation of a number of Articles of the Labor Code on labor disputes                             <ul style="list-style-type: none"> <li>• Decree 41/2013/ND-CP Providing Details on Article 220 of the Labor Code on list of enterprises that are not permitted to go on strike and resolving requests of labor collective in enterprises that are not permitted to go on strike</li> </ul> </li> <li>• Decree 05/2015/ND-CP Providing Details on a number of Articles of the Labor Code</li> <li>• Circular 08/2013/TT-BLDTBXH Guiding Decree 46/2013/ND-CP on labor disputes</li> </ul>	National Assembly  Government  Government  Government  MOLISA	June 18, 2012  May 10, 2013  May 8, 2013  January 12, 2015  June 10, 2013
24.	<i>Strikes</i>	<ul style="list-style-type: none"> <li>• Labor Code</li> <li>• Decree 46/2013/ND-CP Providing Details and Guiding Implementation of a number of Articles of the Labor Code on labor disputes</li> </ul>	National Assembly Government	June 18, 2012 May 10, 2013

No.	Issue	Name of legal documents	Issued by	Issued on
25.	<i>Transfer of Business</i>	<ul style="list-style-type: none"> <li>• Labor Code</li> </ul>	National Assembly	June 18, 2012
26.	<i>Labor Outsourcing</i>	<ul style="list-style-type: none"> <li>• Labor Code</li> <li>• Decree 55/2013/ND-CP Providing Details and Guiding Implementation of Article 54 of the Labor Code on labor outsourcing</li> </ul>	National Assembly Government	June 18, 2012 May 22, 2013
27.	<i>Administrative sanctions</i>	<ul style="list-style-type: none"> <li>• Decree 95/2013/ND-CP Providing administrative sanctions in a range of certain categories: labor, social insurance and arranging Vietnamese employee working overseas on a contract basis (as amended by Decree 88/2015/ND-CP dated October 7, 2015).</li> </ul>	Government	August 22, 2013

**SCHEDULE 2: SUMMARY OF LABOR CONDITIONS AND BENEFITS**

<b>Working conditions</b>	<b>Number of days/hours</b>	<b>Payment to employees</b>
<b>Working time:</b> Ordinary time	Maximum 8 hours/day, <b>or</b> 10 hours/day if the employer provides working time on a weekly basis; and Maximum 48 hours/week	Day shift: 100% salary Night shift (10pm to 6am): 130% salary of day shift
Overtime	Maximum 50% of normal working hours/day (total normal working hours and overtime cannot exceed 12 hours/day), 30 hours/week and 200 hours/year. Maximum 300 hours/year in special cases.	At least 150% on a normal work day At least 200% on a weekly day off At least 300% on a public holiday or during fully paid leave, excluding 100% of normal paid work hour. An additional night shift overtime payment of 20% of the day shift salary
<b>2. Break time</b>	At least one day off/week A break of 30 minutes <sup>45</sup> if employee works 8 consecutive hours A break of 45 minutes if the employee works at night Additional 30 minutes if the employee works 10 hours a day (including overtime) A break of 12 hours between each shift if the employee works in shifts	
<b>3. Leave:</b> Public holidays	10 days	100% of salary

<sup>45</sup> The law does not provide a clear purpose for the break. In practice, it is usually for meals, tea break, etc.

Working conditions	Number of days/hours	Payment to employees
Annual leave	12 days for normal working conditions 14 days for strenuous, dangerous, or toxic work, <b>or</b> harsh living conditions, and if under 18 years of age 16 days for extremely strenuous, dangerous work, or in strenuous, dangerous or toxic jobs in places with harsh living conditions	100% of salary
Personal leave	3 days if employee gets married 1 day if employee's children get married 3 days if employee's parent (including parents-in-law), spouse or child dies	100% of salary

**SCHEDULE 3: RETIREMENT REGIME**

The age of retirement for a male is 60 and for a female is 55. Employees with high technical expertise and employees working as managers and employees in a number of special cases may retire at an older age, but not more than five (5) years later than the age prescribed above.<sup>46</sup> During the additional working period, they and their employer must continue to contribute to the Social Insurance Fund, unless the employee has received a monthly retirement pension.

If an employee leaves job when he reaches retirement age and has contributed to the social insurance fund for 20 years or more, he is entitled to a monthly pension. If the term he has contributed to social insurance is more than 10 years but less than 20 years, the employee may participate in voluntary social insurance until his accumulated contribution to social insurance period reaches to 20 years in order to receive a monthly pension. If the employee has not reached retirement age, but has contributed to social insurance for at least 20 years and satisfies certain additional conditions, the employee is entitled to a monthly pension, but at a lower rate.

If there is no monthly pension entitlement, the employee may be eligible for a lump-sum insurance allowance. He is entitled to a one-time social insurance allowance which is calculated according to the term of contributed to social insurance and the average monthly salary on which the social insurance contribution was based.

Additionally, an employee may entitle for a one-time social insurance allowance for the term of contributed to social insurance which is more than 30 years of contribution. It is paid separated from the monthly pension.

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<sup>46</sup> See Art.187.3 of Labor Code.

Period of social insurance contribution	Age of employee	Additional conditions	Rate of benefits	Comments												
➤ 20 years or more	<ul style="list-style-type: none"> <li>➤ Male: 60</li> <li>➤ Female: 55</li> </ul>	None None	<p><b><u>Male:</u></b></p> <table border="1" data-bbox="1323 502 1910 1066"> <tr> <td>From January 1, 2018 – December 31, 2018</td> <td>45% + [2% × (years of insurance contribution-16)]</td> </tr> <tr> <td>From January 1, 2019 – December 31, 2019</td> <td>45% + [2% × (years of insurance contribution-17)]</td> </tr> <tr> <td>From January 1, 2020 – December 31, 2020</td> <td>45% + [2% × (years of insurance contribution-18)]</td> </tr> <tr> <td>From January 1, 2021 – December 31, 2021</td> <td>45% + [2% × (years of insurance contribution-19)]</td> </tr> <tr> <td>From January 1, 2022 onwards</td> <td>45% + [2% × (years of insurance contribution-20)]</td> </tr> </table> <p><b><u>Female:</u></b></p> <table border="1" data-bbox="1323 1177 1910 1289"> <tr> <td>From January 1, 2018 onwards:</td> <td>45% + [2% × (years of insurance contribution-15)]</td> </tr> </table>	From January 1, 2018 – December 31, 2018	45% + [2% × (years of insurance contribution-16)]	From January 1, 2019 – December 31, 2019	45% + [2% × (years of insurance contribution-17)]	From January 1, 2020 – December 31, 2020	45% + [2% × (years of insurance contribution-18)]	From January 1, 2021 – December 31, 2021	45% + [2% × (years of insurance contribution-19)]	From January 1, 2022 onwards	45% + [2% × (years of insurance contribution-20)]	From January 1, 2018 onwards:	45% + [2% × (years of insurance contribution-15)]	<p>Maximum rate is 75%.</p> <p>Note: From the 31<sup>st</sup> year of contributing social insurance, an employee has the right to receive a one-time allowance at retirement.</p>
From January 1, 2018 – December 31, 2018	45% + [2% × (years of insurance contribution-16)]															
From January 1, 2019 – December 31, 2019	45% + [2% × (years of insurance contribution-17)]															
From January 1, 2020 – December 31, 2020	45% + [2% × (years of insurance contribution-18)]															
From January 1, 2021 – December 31, 2021	45% + [2% × (years of insurance contribution-19)]															
From January 1, 2022 onwards	45% + [2% × (years of insurance contribution-20)]															
From January 1, 2018 onwards:	45% + [2% × (years of insurance contribution-15)]															

Period of social insurance contribution	Age of employee	Additional conditions	Rate of benefits	Comments																
➤ 20 years or more	<ul style="list-style-type: none"> <li>➤ Male: 55 or more</li> <li>➤ Female: 50 or more</li> </ul>	Employee has spent: <ul style="list-style-type: none"> <li>➤ 15 years doing strenuous work or in a stressful job; <b>or</b></li> <li>➤ 15 years working in an area with an area allowance indexed at 0.7 or more</li> </ul>	As prescribed above	As prescribed above																
➤ 20 years or more	➤ From full 50 to full 55	Employee has spent 15 years working in coal mines	As prescribed above	As prescribed above																
➤ 20 years or more	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%;"></th> <th style="width: 20%; text-align: center;">Male</th> <th style="width: 20%; text-align: center;">Female</th> </tr> </thead> <tbody> <tr> <td>From January 1, 2018 – December 31, 2018</td> <td style="text-align: center;">53</td> <td style="text-align: center;">48</td> </tr> <tr> <td>From January 1, 2019 – December 31, 2019</td> <td style="text-align: center;">54</td> <td style="text-align: center;">49</td> </tr> <tr> <td>From January 1, 2020 onwards</td> <td style="text-align: center;">55</td> <td style="text-align: center;">50</td> </tr> </tbody> </table>		Male	Female	From January 1, 2018 – December 31, 2018	53	48	From January 1, 2019 – December 31, 2019	54	49	From January 1, 2020 onwards	55	50	<ul style="list-style-type: none"> <li>➤ His capacity to work has been reduced by from 61% to 81%</li> </ul>	Male: <table border="1" style="width: 100%; border-collapse: collapse;"> <tbody> <tr> <td style="width: 30%;">From January 1, 2018 – December 31, 2018</td> <td style="width: 70%;">45% + [2% × (years of insurance contribution-16)] - [2% × (60-age at retirement)]</td> </tr> <tr> <td>From January 1, 2019 – December 31, 2019</td> <td>45% + [2% × (years of insurance contribution-17)] - [2% × (60-age at retirement)]</td> </tr> </tbody> </table>	From January 1, 2018 – December 31, 2018	45% + [2% × (years of insurance contribution-16)] - [2% × (60-age at retirement)]	From January 1, 2019 – December 31, 2019	45% + [2% × (years of insurance contribution-17)] - [2% × (60-age at retirement)]	As prescribed above
	Male	Female																		
From January 1, 2018 – December 31, 2018	53	48																		
From January 1, 2019 – December 31, 2019	54	49																		
From January 1, 2020 onwards	55	50																		
From January 1, 2018 – December 31, 2018	45% + [2% × (years of insurance contribution-16)] - [2% × (60-age at retirement)]																			
From January 1, 2019 – December 31, 2019	45% + [2% × (years of insurance contribution-17)] - [2% × (60-age at retirement)]																			

Period of social insurance contribution	Age of employee	Additional conditions	Rate of benefits		Comments
			From January 1, 2020 – December 31, 2020	45% + [2% × (years of insurance contribution-18)] - [2% × (60-age at retirement)]	
	From January 1, 2021 – December 31, 2021	45% + [2% × (years of insurance contribution-19)] - [2% × (60-age at retirement)]			
	From January 1, 2022 onwards	45% + [2% × (years of insurance contribution-20)] - [2% × (60-age at retirement)]			
Female:	From January 1, 2018 onwards:	45% + [2% × (years of insurance contribution-15)] - [2% × (55-age at retirement)]			
➤ 20 years or more	<ul style="list-style-type: none"> <li>➤ Male: 50 or more</li> <li>➤ Female: 45 or more</li> </ul>	➤ His capacity to work has been reduced by at least 81%	As prescribed as above		As prescribed as above

Period of social insurance contribution	Age of employee	Additional conditions	Rate of benefits	Comments
➤ 20 years or more	➤ None	<ul style="list-style-type: none"> <li>➤ Employee has spent 15 years doing in coal mines; <b>and</b></li> <li>➤ His capacity to work has been reduced by at least 61%;</li> </ul>	As prescribed as above	As prescribed as above
➤ Less than 20 years	<ul style="list-style-type: none"> <li>➤ Male: 60 or more</li> <li>➤ Female: 55 or more</li> </ul>	<ul style="list-style-type: none"> <li>➤ None</li> <li>➤ None</li> </ul>	One-time allowance at retirement	
➤ Less than 20 years	<ul style="list-style-type: none"> <li>➤ Male: irrespective of age.</li> <li>➤ Female: irrespective of age</li> </ul>	<ul style="list-style-type: none"> <li>➤ His capacity to work has been reduced by at least 61%; <b>or</b></li> <li>➤ He requests a one-time social insurance benefit for 12 months after he ceases to contribute to social insurance.</li> </ul>	One-time social insurance allowance	

**SCHEDULE 4: TERMINATION OF EMPLOYMENT**

Item No.	Type of termination	Final payment and entitlement to employees	Process to terminate	Note
<b><u>1.</u></b>	<b><u>Termination by the employer</u></b>			
<b>1.1</b>	<b>Termination for convenience without cause</b>			
1.1 (a)	Retrenchment due to technological changes, such as changes in part or all of the equipment, machinery, technological process, or changes in the organizational structure, such as merger, consolidation, dissolution of some departments (Articles 44.1 of the Labor Code)	Redundancy allowance	<p>If it is necessary to terminate labor contracts of several employees, the employer must announce the list of affected employees.</p> <p>For each affected employee, the employer must decide on termination upon consultation and agreement with the Trade Union at the enterprise, based on the length of service, qualifications and skills, family conditions, etc.</p> <p>Notice must be sent to the DOLISA 30 days prior to termination.</p>	<ul style="list-style-type: none"> <li>○ <u>Redundancy allowance</u> is one-month's salary for each year of employment, but at least 2 months' salary;</li> <li>○ Payable to an employee who has at least 12 full months of service;</li> <li>○ Length of service excludes months of unemployment insurance contribution (since January 1, 2009);</li> <li>○ Years of service are rounded up if at least 6 months.</li> </ul>

Item No.	Type of termination	Final payment and entitlement to employees	Process to terminate	Note
1.1 (b)	Retrenchment due to economic reasons or due to merger, consolidation, division, separation, transfer of assets of the employer (Article, 44.2 and Article 45 of the Labor Code)	Redundancy allowance	<p>The employer must work out a plan to use employees after the event. Such a plan must include the following contents:</p> <ul style="list-style-type: none"> <li>• Number of employees that continue to be employed;</li> <li>• Number of employees that are re-trained for employment in other positions;</li> <li>• Number of retired employees;</li> <li>• Number of employees that are transferred to part-time jobs;</li> <li>• Number of employees whose labor contracts must be terminated; and</li> <li>• Plan to pay retraining costs, allowances and other benefits to the affected employees.</li> </ul> <p>The Trade Union at the enterprise (if any) must review and comment on the plan, and then it must be sent to the DOLISA.</p>	
1.1 (c)	Automatic termination (Article 36 of the Labor Code) if:	Severance allowance	No procedures required.	○ <u>Severance allowance</u> is one-half of one-

Item No.	Type of termination	Final payment and entitlement to employees	Process to terminate	Note
	<ul style="list-style-type: none"> <li>• Labor contract expires;</li> <li>• Task stated in the labor contract completed;</li> <li>• Employer and employee agree to terminate labor contract;</li> <li>• The employee satisfies the requirements of social insurance duration and pension age;</li> <li>• Employee is sentenced to serve a jail term or is prevented from performing the job in accordance with a decision of the court; or</li> <li>• Employee dies or is declared missing by a court;</li> <li>• The employer, if an individual: dies, is declared dead, missing or incapable of civil acts by the Court; the employer, if not an individual, stops the operation.</li> </ul>			<p>month's salary for each year of employment;</p> <ul style="list-style-type: none"> <li>○ Payable to an employee who has at least 12 full months of service;</li> <li>○ Length of service for severance allowance purposes is calculated by total length of service (with the company) minus months of unemployment insurance contribution (after January 1, 2009);</li> <li>○ If length of service is more than 12 months but length of service for severance allowance is under 12 months, round up rules are applied as follows: From 1 full month to under 6 months: round up, 0.5 year of service;</li> </ul>

Item No.	Type of termination	Final payment and entitlement to employees	Process to terminate	Note
				<p>6 full months and above: round up to 1 year of service.</p> <ul style="list-style-type: none"> <li>○ A year of service is added by rounding up every full 6 months.</li> </ul>

Item No.	Type of termination	Final payment and entitlement to employees	Process to terminate	Note
1.2	<b>Termination for cause</b>			
	An employer may unilaterally terminate a labor contract on the following grounds (Article 38 of the Labor Code):			
	<ul style="list-style-type: none"> <li>Employee repeatedly fails to perform his work in accordance with the terms of his contract</li> </ul>	Severance allowance	The following notice must be given before termination: <ul style="list-style-type: none"> <li>A 45 day prior notice if his labor contract has an indefinite term;</li> <li>A 30 day prior notice if his labor contract has a definite term of from 12 months to 36 months; or</li> <li>A 3 working day prior notice if his labor contract is seasonal or has a term of less than 12 months.</li> </ul>	Unilateral termination of an employee is difficult. However, with carefully worded ILRs and labor contract, a company has a better opportunity to establish grounds for termination. Because notice is an employer's obligation in case of termination for cause, a PILON (Payment In Lieu Of Notice) cannot apply, except there is an agreement with terminated employee.
	<ul style="list-style-type: none"> <li>Employee is ill and remains unable to work after having received treatment for certain periods of time</li> </ul>	Severance allowance	The following notice must be given before termination: <ul style="list-style-type: none"> <li>A 45 day prior notice if his labor contract has an indefinite term;</li> </ul>	

Item No.	Type of termination	Final payment and entitlement to employees	Process to terminate	Note
	<ul style="list-style-type: none"> <li>• Employer must reduce production after attempting all measures to recover from an event of force majeure</li> </ul>	Severance allowance	<ul style="list-style-type: none"> <li>• A 30 day prior notice if his labor contract has a definite term of from 12 months to 36 months; or</li> <li>• A 3 working day prior notice if his labor contract is seasonal or has a term of less than 12 months.</li> </ul>	
	<ul style="list-style-type: none"> <li>• Employer ceases its operations</li> </ul>	Severance allowance		
<b>1.3</b>	<b>Termination for disciplinary violations</b>			
	<p>An employer may dismiss an employee if (Article 126 of the Labor Code):</p> <ul style="list-style-type: none"> <li>• He commits an act of theft, embezzlement, gambling, intentionally causing injury, using drugs within the workplace, disclosing technology and business secrets, intellectual property infringement of the employer, causing serious damage or threatening to cause extremely serious damage to the property and interests of the employer;</li> <li>• He recommit an offence after he is disciplined by: delayed pay raise, transfer to another position, removal;</li> <li>• He takes an aggregate of 5 days off in one month or 20 days off in one year without acceptable reasons.</li> </ul>	<p>No severance allowance</p> <p>No severance allowance</p> <p>No severance allowance</p>	<p>The employer must hold a meeting to deal with disciplinary violation. The employee and the trade union are required to attend the meeting.</p>	<p>Termination of an employee in this case is difficult. Carefully worded Internal Labor Rules are necessary for a company to establish sound grounds for termination.</p>

Item No.	Type of termination	Final payment and entitlement to employees	Process to terminate	Note
<b><u>2.</u></b>	<b><u>Termination by an employee</u></b>			
<b>2.1</b>	<b>Termination without cause</b>			
2.1 (a)	Automatic termination (Article 36 of the Labor Code); See Item 1.1 (c) of this Schedule	Severance allowance	The employer must give at least 15 days prior notice in case the labor contract expires	
2.1 (b)	Unilateral termination of an indefinite term labor contract (Article 37.3 of the Labor Code)	Severance allowance	The employee must give a 45 day prior notice The employee must give at least 3 working days prior notice if he is ill or a victim of an accident and has received medical treatment for 6 consecutive months	This type of termination can apply only to an indefinite term labor contract An employee is not required to give any reason in order to unilaterally terminate an indefinite term labor contract
<b>2.2</b>	<b>Termination for cause</b>			
	An employee with a definite term labor contract__may unilaterally terminate the contract if (Article 37 of the Labor Code):			Evidence of cause is essential for termination
	<ul style="list-style-type: none"> <li>• He is assigned a duty or assigned work at a location inconsistent with his labor contract; or the working conditions agreed to under his labor contract are not satisfied;</li> </ul>	Severance allowance	The employee must give at least 3 working days prior notice	

Item No.	Type of termination	Final payment and entitlement to employees	Process to terminate	Note
	<ul style="list-style-type: none"> <li>• He is not paid in full or on time as provided in his labor contract;</li> </ul>	Severance allowance	The employee must give at least 3 working days prior notice	
	<ul style="list-style-type: none"> <li>• He is maltreated or forced to do inappropriate tasks (e.g., tasks that are inappropriate in terms of gender or may affect health or dignity);</li> </ul>	Severance allowance	The employee must give at least 3 working days prior notice	
	<ul style="list-style-type: none"> <li>• He or his family faces such difficulty that he is unable to continue to work under his labor contract (e.g., moving to a locality from which commuting is difficult, moving abroad, caring for his spouse, parents, spouse's parents, or child, if ill for three months or more);</li> </ul>	Severance allowance	The employee must give a 30 day prior notice	
	<ul style="list-style-type: none"> <li>• He is appointed to a permanent position in a people's elective body or in a state authority;</li> </ul>	Severance allowance	The employee must give a 30 day prior notice	
	<ul style="list-style-type: none"> <li>• She is pregnant and must take rest as prescribed by a doctor; or</li> </ul>	Severance allowance	Subject to a doctor's prescription	
	<ul style="list-style-type: none"> <li>• He has suffered from an illness or accident and has been under treatment for 3 months but has not yet recovered his capacity to work.</li> </ul>	Severance allowance	The employee must give at least 3 working days prior notice	

<b>Item No.</b>	<b>Type of termination</b>	<b>Final payment and entitlement to employees</b>	<b>Process to terminate</b>	<b>Note</b>

**SCHEDULE 5: COMPENSATION/ALLOWANCES FOR WORK-RELATED ACCIDENTS**

**I. Compensation/allowances paid by the company to an injured employee**

Item No.	Type of accidents	Entitlement	
		Accident occurred without fault of the injured employee	Accident occurred due to the fault of the injured employee
1.	An accident occurs on the way from the work place to home and vice versa	Allowance	None
2.	An accident occurs at the workplace	Compensation	None
3.	An accident occurs while the employer works out of the work place upon the employer's assignment	Compensation	Allowance

Compensation entitlement will be paid with the following rate depending on the percentage of reduced working capacity:  
 From 5% to 10%: Compensation equal to at least 1.5 months of monthly salary ("A");  
 From 11% to 80%: Compensation equal to A, plus 40% of monthly salary for every additional percentage of reduced working capacity.  
 From 81% or more, or the employee dies: Compensation equal to at least 30 months of monthly salary. If an employee dies in a work-related accident, the compensation is paid to his family.

**II. Allowances paid by the Social Insurance Fund to an injured employee**

**1. Lump-sum allowance<sup>47</sup>:** for an employee whose working capacity is reduced by 5% to 30%.

Injured employee's reduced working capacity	Lump-sum allowance = (C) + (D)	
	(C)	(D)
	Allowance calculated based on reduced working capacity	Additional allowance calculated based on the number of years of social insurance contribution ("SI period")
5%	5 months	<ul style="list-style-type: none"> <li>If SI period is one year or less, he is entitled to receive 0.5% of the monthly salary; Afterwards, for each additional year of contribution, he is entitled to receive an additional 30% of the monthly salary;</li> </ul>
Every additional percentage of reduced working capacity	Add 0.5 month	
Note: The salary used to calculate (C) is the regional minimum wage. The salary used to calculate (D) is the salary on which the social insurance contribution was based just prior to taking time off for treatment.		

**2. Monthly allowance:** for an employee whose working capacity is reduced by 31% or more.

<sup>47</sup> If an employee dies in a work-related accident, the lump-sum is paid to his family with 36 months' national minimum wage.

Injured employee's reduced working capacity	Monthly allowance = (E) + (F) + one month salary	
	(E)	(F)
	Allowance calculated based on reduced working capacity	Additional allowance calculated based on the number of years of social insurance contribution
31%	30 % of the regional minimum wage	<ul style="list-style-type: none"> <li>• If SI period is one year or less, he is entitled to receive 0.5% of the monthly salary;</li> <li>• Afterwards, for each additional year of contribution, he is entitled to receive an additional 0.3% of the monthly salary;</li> </ul> The salary used to calculate (F) is the salary on which the social insurance contribution was based just prior to taking time off for treatment.
Every additional percentage of reduced working capacity	Add 2% of the regional minimum wage for every additional percentage	

**SCHEDULE 6: CONDITIONS AND SCOPE OF SERVICES FOR LABOR OUTSOURCING**

**1. Requirements to be issued a labor outsourcing license:**

- Deposit of 2,000,000,000 Vietnamese Dong;
- Legal capital of 2,000,000,000 Vietnamese Dong;
- Having stable premises for at least two years;
- The legal representative of the enterprise must have: (i) full civil capacity; (ii) experience with respect to labor outsourcing of three years or more; and (iii) not had his business license withdrawn within the three consecutive years prior to applying for labor outsourcing license.

➤ *A foreign company and a Vietnamese company may have a joint venture to provide labor outsourcing. The foreign partner must satisfy the following requirements:*

- Labor outsourcing is its main objective business;
- Capital and valuation of assets are at least 10,000,000,000 Vietnamese Dong;
- It has at least five years experience in labor outsourcing.

**2. Scope of services for labor outsourcing**

No.	Services
1	Interpretation/translation/shorthand services
2	Secretarial/administrative assistance services
3	Reception services
4	Tourist guide services
5	Sales assistance services
6	Support services for (investment) projects
7	Programming services for machinery production systems
8	Manufacturing or installation services for television and telecommunications equipment
9	Operating/checking/repairing services of construction engines or for electric systems for production
10	Cleaning services for buildings or factories
11	Document editing services
12	Bodyguard/security services
13	Marketing/customer care services by phone
14	Services to deal with financial issues or taxation
15	Repairing/testing car operation services
16	Scanning, industrial engineer drawing/interior decoration services
17	Driving services

ANNEX I

**Outline of a Labor Contract**

THE SOCIALIST REPUBLIC OF VIETNAM  
Independence – Freedom – Happiness  
-----

Name of the Company: \_\_\_\_\_ date \_\_\_\_\_  
Ref. No.:

**LABOR CONTRACT**

We, from one side, Mr./Ms.: \_\_\_\_\_ Nationality: \_\_\_\_\_  
Position: \_\_\_\_\_  
On behalf of: [the Company]  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

And from the other side, Mr./Ms.: \_\_\_\_\_ Nationality: \_\_\_\_\_  
Date of birth: [day/month/year] \_\_\_\_\_ Place of birth: \_\_\_\_\_  
Profession: \_\_\_\_\_  
Resident address: \_\_\_\_\_  
ID Card number: \_\_\_\_\_ issued on: [day/month/year] \_\_\_\_\_ by: \_\_\_\_\_  
Reference number of the Employment Record Book (if any): \_\_\_\_\_ issued on  
[day/month/year] at \_\_\_\_\_

Agree to enter into this labor contract and commit to comply with the following terms and conditions:

***Article 1: Duration and Contractual Works***

- Type of contract: [indefinite or definite term]
- From: [day/month/year]
- Working location:
- Professional title:
- Position (if any):
- Duties:

***Article 2: Working Regime***

- Working time:
- Equipment to be provided:

***Article 3: Benefits and Obligations of the Employee***

**1. Benefits:**

- Means of transportation:
- Basic salary or remuneration:
- Method of payment:
- Allowances:
- Payment to be made monthly on \_\_\_\_\_ :
- Bonus:
- Salary promotion regime:
- Labor protection equipment to be provided:
- Resting time (weekends or weekdays off, annual leave, holidays, etc.):
- Social and medical insurance:
- Training policies:
- Other benefits:

**2. Obligations:**

- Fulfill the works as agreed under this labor contract.
- Comply with manufacturing or trading orders, labor discipline and safety regulations, etc.
- Compensation for violation of labor disciplines and material liabilities:

***Article 4: Rights and obligations of the employer***

**1. Obligations:**

- Provide the work and fulfill the commitments as agreed under this labor contract.
- Fully pay the employee the salary and other benefits as agreed under the labor contract or collective labor agreement (if any), in a timely manner.

**2. Rights:**

- Manage labor to fulfill the work as agreed under the labor contract (including arrangement, assignment, or temporary suspension of the work, etc.)
- Temporarily suspend or terminate the labor contract, punish the employee in accordance with the laws, collective labor agreements (if any) and the employer's working regulations.

***Article 5: Implementing Provisions***

- Other labor issues, which are not included in this labor contract, shall be subject to collective labor agreements, or the labor law if there are no collective labor agreements.

- This labor contract is made in two originals having equal validity. One original shall be kept by each party and effective as from [day/month/year]. If the parties also execute annexes to this labor contract, the annexes shall have the same binding effect on the parties as does this labor contract.

This contract is made at \_\_\_\_\_ on \_\_\_\_\_ 20\_\_

EMPLOYEE  
[sign and full name]

EMPLOYER  
[sign, seal and full name]