**Shareholder Agreement**

**Between**

**Mr. Sambo Sambath**

**and**

**Ms. Chakriya Broser**

**(Preliminary draft)**

**2014**



**Content**

**Article 1: Parties to this Agreement 2**

**Article 2: Transfer of Ownership 4**

**Article 3: Company legal capital and transfer value 5**

**Article 4: Pledge of both parties 7**

**Article 5: Responsibility of All Parties 8**

**Article 6: Board of Directors 8**

**Article 7: Management 11**

**Article 8: Confidentiality 12**

**Article 9: Operational Period of Company 13**

**Article 10: Closing of Company's List and Distribution of Benefits 13**

**Article 11: Termination of Agreement 13**

**Article 12: Sacred Chair 14**

**Article 13: Dispute Resolution 14**

**Article 14: Other Regulations 15**

**Shareholder agreement**

This agreement was made in Phnom Penh on May 5, 2019 by and between **Mr. Sambo Sambath**, the sole proprietor of the **Bakery 168** , hereinafter referred to as **Party A**. and **Mrs. Chakrya Broser,** hereafter called **Part B**, and each side is separately called '**One Party**' and together they are called **'Both Parties'**.

**Based on evidence, it is proved that**

Mr. Sambo Sambath, the sole owner of the **Bakery 168**  business, and Mrs. Chakrya Broser have agreed to invest capital for joint venture purposes on the **Bakery 168**  projects under the following agreements:

**Article 1: Parties to this Agreement**

**1.01 Both Parties: The parties to this Agreement are as following:**

**Party A**

Mr. Sambo Sambath is a major shareholder and also a representative of **Bakery 168**

Trade Name: Bakery 168

Address: #86, Sambour Meas Village, Chamkar Dong Road (217), Sangkat Dangkor, Khan Dangkor, Phnom Penh

Mobile phone number: +855 12 XXX XXX

Email: mr.sambosambath@gmail.com

**Part B**

Chakry Broser: is an investor, who is the new shareholder of the **Bakery 168**

Address: #60, Sambour Meas Village, Chamkar Dong Road (217), Sangkat Dangkor, Khan Dangkor, Phnom Penh

Mobile phone number: +855 98 XXX XXX

Email: ms.chakriya@gmail.com

**1.02 The parties' guarantees to each other**

Each party represents and warrants each of the following parties:

1. The representative parties have the qualifications and the right to carry out and fulfill this agreement in accordance to the law.
2. The representative parties are fully authorized to sign this agreement, with the required and legal evidence, and a copy of the evidence to the other party.
3. This agreement is effective and binding upon both parties’ signature date.
4. The implementation and fulfillment of this agreement by a representative party will not violate the pledge or the obligations of the other representative.

**Article 2: Transfer of ownership**

**2.01 The transfer of ownership and interests of the company**

1. According to the terms and conditions of this agreement, Mr. Sambo Sambath, appointed as the representative of the **Bakery 168**, agreed to transfer ownership to Party B 30% (thirty percent) of the rights and interests of the **Bakery 168**, as stated and promised in detail in Articles 4 and 5 below, and throughout this agreement.
2. This transfer of ownership and benefit gives Part B the right to participate in all business and affairs of the **Bakery 168**, including the right to consent to any decision or action of the **Bakery 168** and other members of company agree to grant Party B the right to participate directly or indirectly to both the profits and losses transactions.
3. Mr. Sambo Sambath assures that he has full authority, under the law, to sign this agreement and perform all obligations and promises to this agreement, so there are no other conflicts of interest with any other third party.
4. The added investment capital is to be added to Mr. Sambo Sambath's **Bakery 168** for expansion only.

**2.02 Restructuring of the Company**

1. Within a month after this signing date, all parties will cooperate in restructuring the company and the company statute in accordance with the provisions of the agreement and preparing the documentation to be registered with the Ministry of Commerce.
2. The company statute will be created in accordance with the terms and conditions of this agreement and will be ratified by both parties. In case that the company statute contains any contradiction to this agreement, both parties shall amend the contrary in the statute in accordance with this agreement. "

**2.03 Purpose of the Company**

* 1. The purpose of the company is to produce breads and bakery products, using similar techniques, to distribute local or national market shares.
	2. Action to achieve the goal:
1. Each party shall act in good faith and use his / her best efforts to achieve the objectives of the company.
2. Training of workers in the appropriate machinery, techniques and skills.
3. Purchase or upgrade of machinery and processors to meet the need.

**2.04 Limited Liability Company**

The company is established and organized as a limited liability company in accordance with the laws of the Cambodia. Responsibility of each party for the company is limited to the legal distribution of the company share agreed for each party, and each party is not responsible for any exceeding responsibility part of the company share and also no responsible for any debts or obligations which are not belonged to the Company. Subjective to the foregoing and to all other terms and conditions stated in this agreement, both parties shall participate the profits sharing, risk taking and losses in accordance with the share rate in the Company's legal capital.

**Article 3: Company's legal capital and transfer value**

**3.01 Legal Capital**

1. The legal capital of the listed company​ after company evaluation is USD200,000.00 (Two hundred thousand dollars) and is divided into 1,000 shares of equal value, with each share valued at USD200.00 (two hundred dollars).
2. Subjective to the terms and conditions of this agreement, Party A (Mr. Sambo Sambath) agrees to transfer the ownership and interests to Party B with 30% of the intellectual property rights and interests of the company, which is equal to 300 shares of legal capital with an investment value USD60,000.00 from Part B. This provision will allow Part B to own and control 30% of all property rights and interests in relation to the company as of the date of signing this agreement.
3. The above investment USD60,000.00 (sixty thousand US dollars) is calculated in cash to fully manage 30% of the legal ownership rights and interests.
4. Within thirty (30) days from the date of this agreement, Part B shall place a total investment of USD60,000.00 into Company’s Bank account for use as planned.

**3.02 Structure of Company Ownership**

From the date of validity of signing of legal assets and rights of ownership as well as the interests of the company, there will be legal capital of USD200,000.00 (Two hundred thousand dollars) which includes the following rights and interests:

1. **Mr. Sambo Sambath** is a co-shareholder who owns 70% of the assets and interests of the company.
2. **Ms. Chakriya Broser** is the new shareholder, who owns 30% of the assets, and interests of the company

**3.03 Legal transfer of capital**

1. No party in this Agreement shall be permitted to transfer or sell or liquidate the shares, in part or in whole, to any third party without the prior written notice to the other party.
2. When one party (seller) wants to transfer or sell or partially dispose of the property by other means, that party must give written notice to the other party stating the provisions and conditions for the concession The other party has priority in the acquisition of the share at a price based on the actual valuation of the business.
3. If the other party does not exercise the acquisition rights within three months, the seller may transfer or sell or liquidate his or her share in part or in whole by other ways to a third party. The offer and the terms and conditions offered to a third party must not be more favorable than the offer and terms offered to the other party, and the seller must provide the other party with a copy of the agreement which has been signed with the party Buyer or third party.
4. The business operations of the company and / or the enforcement of the agreements shall not be interrupted, and the structure of the company shall not be affected by any transfer or concession and other means of liquidation.
5. The transfer of any kind of interest in a legal asset must be approved with the consent of the Board of Directors.

**Article 4: Agreed Shares of both Parties**

**4.01 Agreed Shares of Party A**

* 1. Party A issue his share of all existing production assets, including machinery and equipment in the production line, production plant, and all equipment in the company office, technical resources and knowledge of the bread production in the following details. The Party's contribution is worth 70% of the overall Bakery 168’s property ownership and interests.
1. Existing permits and licenses.
2. Technical resources and knowledge on the production of bakery products.
3. The recipe for baking bread currently in operation before the date of signing (excluding a private home owned by Part A).

**4.02 Party B’s agreed share**

Part B will contribute the promised investment of USD60,000.00 (USD 60,000) only. This joint-ventured capital acquires with 30% of the assets and interests of the company.

**4.03 Use of the joint-ventured capital**

1. The joint-venture capital contributed by both parties will be used only for the development or expansion of the company.
2. No party shall be allowed to withdraw from the company's joint-ventured capital in the company bank's account for personal usage purposes.
3. The investment plan was agreed by both parties to the agreement.
4. When the company needed more capital, both sides decided to propose loans from various sources.

**4.04 Term for Committed Investment Contribution**

 Committed investment must be made from the date of signing, or phasal installment for the period of three months as long.

 In any case of further delay, the Part B must the reason and the both parties must meet to discuss.

**Article 5: Responsibility of the Parties**

**5.01 Responsibilities of Part A**

In addition to the other obligations as set forth in this Agreement, the Party A shall have the following additional responsibilities:

1. On behalf of the two parties to file a request for the opening of a new company (or remain as a small handicap to request a small tax duty if both parties agree) and to restructure and follow the Action Plan.
2. Provide skilled personnel to participate in the management and operation level of the company.
3. Contribute to the company capital as agreed.
4. Complete all procedures for registration under applicable law in the country.
5. Represent the company looking for local loan resources if needed.
6. Solve all the other problems that the company faces.

**5.02 Responsibilities of Party B**

In addition to the other obligations as set forth in this Agreement, Part B shall have the following additional responsibilities:

1. Contribute to the​ Party A’s legal capital with his committed investment as set forth in this Agreement.
2. Assists the company in solving problems and communicating with government officials on company activities.
3. During cooperation set in this agreement, Part B does not engage in anything that is competitive or cause any conflicts of interest with the Bakery 168.
4. It is not possible to establish the same bread-making company that conflicts with the Bakery 168 which is in cooperates with Part A, or even after the case of severe which possibly leads to a complete agreement terminated. But Party B can only open and run the bakery business after 2 (two) years of contract termination.
5. Assist with company where applicable for additional developing plans.

**Article 6: Board of Directors**

**6.01 Board of Directors**

The Board is the highest leadership of the Company.

* 1. The 5 (five) members of Board of Directors will be chosen or selected
	2. The Board shall be formed no later than two weeks after the parties sign the agreement. In the first step, the Board must work hard to organize the company process.
	3. The President of the Board can act as the Director General of Company.
	4. Board members who work as management members in the company will be paid according to their skills and experience.
	5. Board members who do not serve on the Board receive a fixed salary that is comparable to the profitability level of the company, and based on any Board of Director's determination, and they will be reimbursed all expenses related to the service of the company.
	6. If a position on the Board is vacant due to retirement, resignation, illness, disability or death, within thirty (30) days each side shall appoint a successor.
	7. The President of the Board shall be appointed by Part A, the Vice-President shall be appointed by Part B.
	8. All major decisions at the Company Leadership level must be made by the Board.

**6.02 Resolutions at Board Meetings**

1. Decisions dealing with the following issues require the unanimous consent of all members of the Board by means of voting:
	1. Approval of the statute and/or amendments to the statute. Provides approval to the selection of members of the Company Executive Committee and the Finance Director of the Company.
	2. Completion and / or clearance of Company
	3. Merge company with any other legal entity
	4. The increase or reduction or transfer of the Company's legal capital
	5. The transfer or lease of some or all of the company assets and investment into other works.
	6. The establishment of a branch or a new joint venture business into any other legal entity
	7. The appointment and termination of Director General and Deputy Director and termination of their duties and powers.
	8. Any purchase of the company assets that exceed USD 1000.00 (one thousand USD)
	9. Approval of company audit service selection.
2. The dignity associated with the following issues requires **a two-third** majority ratification of the Board of Trustees by the voters:
	1. Developing and amending important company principles and rules.
	2. Consensus of balance sheets, profit and loss statements, and other annual financial statements.
	3. Approval of Annual Business Plan, Annual Investment Plan, Completed Investment Loans, and Annual Loans rate for company new purchases, Profit Sharing or Loss resolution.
	4. Major changes to the Company Action Framework.
	5. Approval of Company's Chief Accounting Officer Selection and Cancellation of Company Independent Auditors
	6. Approval of payroll and welfare of the Director General, Deputy Director, and Chief Accounting Officer.
	7. Approval of Company's main rules and regulations, agreements other than normal business operations to be signed by the Director General.
	8. Any other issues identified in writing by both parties, the Board needs to review and resolve.

**6.03 Board meetings**

* + 1. Board meetings are held at least twice a year at the registry company address or at any hotel in the province, at the discretion of the Board President. An interim Board meeting may be convened at any time upon the wishes of the Board President or may be convened by two-thirds of the Board members. If President of the Board is unable to lead the meeting, the Vice-President shall preside over the meeting on behalf of the President.
		2. The first meeting of the Board shall be held within 15 days from the date of validity.
1. In the case that a member of the Board of Directors is unable to attend the Board meeting, he / she shall issue a permit allowing a representative to attend the meeting. The authorized representative shall have power similar to that of the Board member. If a Board member does not attend the meeting or does not allow a person to represent the Board, he or she is considered to be resigning. The participation of at least two-thirds of the total members of the Board in person or by representative shall constitute a minimum number of members to make a decision at the Board meeting.
2. If there is not a minimum number of members within 30 minutes after the scheduled time to begin the meeting, the meeting will be canceled until the next day, as determined by the President of the Board on the date, time and place of the meeting. The newly rescheduled meeting will address issues on the agenda that were previously canceled.
3. When a meeting is canceled, the company will try to notify the absent member of the new place, date, and time for the next meeting.
4. The parties shall establish the conditions and ensure that all members appointed by both parties shall exercise their voting rights to vote on the implementation of this Agreement and the resolutions requested at the meeting.
5. Company will communicate with all Board members via designated email or cell phone.
6. All meetings of the Board of Directors shall be notified 14 days in advance, unless the Board members approve on another shorter notice period.
7. A written decision signed by all members will be as valid as a resolution ratified at a formal Board member meeting.
8. All costs incurred as for the meeting will be reimbursed. Alternatively, Board members may receive remuneration and reimbursement for special duties assigned to them by the Board through a budget approved entirely by the Board.
9. In the case that the Director General or Deputy Director is not a member of the Board, they may attend the Board meetings, but they are not eligible to vote.

**Article 7: Management**

**7.01 Executive Office**

1. Company will set up several executive offices. These offices are: Finance and Administration Office, Production Office, Study and Research Office, and Product and Marketing Office. Office arrangements may change depending on the operation of the company.
2. If the Board deems it necessary to change the structure of the Executive Committee, the Board may make such changes following a decision of the Board.

**7.02 Powers and Responsibilities of the Director General and Deputy Director**

1. The Director General and the Deputy Director shall implement the Board's decision and shall organize and manage the day-to-day operations of the Company. The Deputy Director General and other Chiefs will assist the Director General.
2. The Director General will represent the company in the selection of staff and exercise other authority conferred by the Board.
3. The Director General is responsible for preparing reports and plans to submit to the Board for approval:

(1) Business plan, operating budget and annual sales plan

(2) financial statements such as profit and loss statements and balance sheets, etc.

1. The Director General has the right to sign agreements within the framework of normal business operations of the Company. The Board will determine the types of agreements that are outside the scope of Company's normal business operations.
2. The Director General will submit the Sales and Financial Statement to the Board. These reports must be submitted within thirty (30) days after the end of the month.
3. The Director General shall refer to the comments of the Deputy Director in all decisions relating to the Company. In the event of a discrepancy in the comments of the Director General and the Deputy Director, the comments of the Director General shall apply. But the Deputy Director may also retain his opinion and present it at an upcoming Board meeting to review and decide.
4. In case of absence of Director General, the Deputy Director shall act on behalf of the Director General to administer the company.

**7.03 accounting system**

1. Deputy Director is the Chief Financial Officer of Company, responsible for the financial management and accounting of the company. The Chief Financial Officer is a Deputy Director of Company approved by the Board.
2. The Chief Financial Officer will develop accounting systems and procedures in accordance with accounting principles adopted by national accounting standards and used in Cambodia, such as QuickBooks or other systems, in which company will apply basic methods of debit / Credit registry record which ensures and guarantee the reliability and accuracy of accounting records.
3. The Company will use US Dollars as the basis for the Company Accounting System.

**7.04 Distribution of Profit**

On the basis of the Board's decision and after adjusting for the reserve fund after tax, the Company will be distributed Profit Sharing to both parties based on the percentage of each party's share. If the company fails in the previous year, the profit of the current year is used to offset the loss. No profit will be disbursed or allocated if the losses in the previous year were not met. If the profit / loss statement of a particular year indicates the loss of the company, the loss will be recorded and accumulated to the following year or so.

**Article 8: Confidentiality**

**8.01 Confidentiality**

All parties will keep confidentiality, considered by both parties and company, by not disclosing to any third party or any other party at any time in connection with this agreement content or the operation of the company during the validity of this agreement and during the period of the existence of the company and the time after that.

**8.02 Managers and staff**

Company will require all members of the Board, directors, and other personnel of both parties working in the company to comply with the confidentiality obligations set forth in Article 8.01.

**Article 9: Operation Period of Company**

The operation period of the company will begin and be valid for an indefinite period from the issuance of a business registration license of the Company. The validity period of this agreement is consistent with the operation period of the company and may be pursued by the agreement of both parties in accordance with the negotiations and laws of the country.

**Article 10: Closing of the Company and Benefits Distribution**

The closing of the accounting record is to be made at the end of the operating year with January as the fiscal month. The Dividend sharing will be also distributed at the same time as the closing of the annual accounting record of company, or within thirty (30) days after.

The distribution of dividends that is profitable to each shareholder shall follow the following formula:

Net Profit After Interest and Taxes 100%

Profit Sharing (Dividend) 50%

Retained Earnings 50%

**Article 11: Termination of Agreement**

The agreement was terminated when the following incident occurred:

1. All parties fail to comply with any of the foregoing, within three months from the date of this Agreement, unless the period is extended for a longer period of time as agreed upon in writing. Both sides.
2. If one of the parties breaches its fiduciary duty under this agreement, the other party may make a written notice to the infringing party stating the nature of the breach. If the infringing party fails to rectify such infringement within ninety (90) days from the date on which the notice is given to the infringing party.
3. If any party sells its shares and violates the provisions of this agreement.

**Article 12: Force majeure**

1. "Force majeure" means any event that happens and is beyond the reasonable control of the parties, and that the event may not be foreseen or foretold or avoided using appropriate efforts, and that event is occurred after the date of signing the agreement, which impedes any party or company in the implementation of the agreement partially or completely.
2. In detail, no party shall be deemed to have failed to fulfill its obligations under this agreement if the obligation has been disrupted or delayed due to war (whether declared or not), civil war, business closure, epidemics, fires, floods, earthquakes, economic sanctions, or for any other reason that are beyond managing capacity of the parties affected by the case of force majeure (hereinafter collectively be referred to as "force majeure" cases).
3. In the case of this force majeure, the affected party shall promptly take reasonable action to discontinue the influence of the force majeure and provide written notice to the other party of the reasons attached with necessary evidence.
4. In the case of a force majeure, all obligations in the agreement to be fulfilled by both parties will be temporarily relieved in the period of delay caused by the case of force majeure and will automatically be extended to a period equal​ to affected force majeure period without penalty.
5. If the force majeure arises for a period of more than one year, each party has the right to terminate the agreement by giving written notice to the other party.

**Article 13: Dispute Resolution**

**Mediation**

 The two parties agree that they will do their best to resolve any dispute or disagreement that arises between the two parties through a manner of deep brotherhood and deep understanding. If any dispute or disagreement remains unresolved within sixty (60) days from the date of the first commencement of the mediation, either party may bring the dispute to arbitration by a commercial arbitrator in the country.

**Article 14: Other provisions**

**14.01 Bonding effect**

This agreement is made for the benefit of both Parties and binds the Parties to their obligations. This agreement shall not be terminated by words but by the signed written text of all signatories.

**14.02 Entire Agreement**

This agreement, together with annex 1 to the accompanying investment plan, will constitute an agreement between the two parties on the main content of this agreement and will supersede all previous discussions, negotiations and agreements exists between the two parties.

In effect, both parties involved in this agreement must be signed by their duly authorized representative on the date of the above written agreement.

This agreement is made up of 3 copies, each party retaining one copy, and each has its own legal value.

**Signed on behalf of and Party A representatives**

**Bakery 168**

**Mr. Sambo Sambath \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Signed on behalf of and Party B representatives**

**Ms. Chakriya Broser \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**ចុះហត្ថលេខាក្នុងនាម និង តំណាង ភាគីខ**

លោកស្រី **ចរិយាប្រសើរ**

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