



# HOSPITALITY & REAL ESTATE PRACTICE

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## A Professional Profile

VCI Legal LLP

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### Ho Chi Minh City

Suite 42-05, Park 7 | Vinhomes Centre Park,  
208 Nguyen Huu Canh St. | Binh Thanh Dist.

### Hanoi

Suite# 901 | 9<sup>th</sup> floor ACB Building | No.10  
Phan Chu Trinh Street | Hoan Kiem Dist,



LOCAL INSIGHTS MEET INTERNATIONAL EXPERTISE

VCI Legal pleases to have this opportunity to provide legal services based on the terms specified hereunder and in accordance with our Standard Terms of Engagement attached hereto for your perusal.

## 1. Professional Experts & Summary of International Practice Experience

1.1 Proposed professional experts to participate in rendering services: Vietnamese and foreign lawyers with civil and common law education background and international legal experience (the United States, the United Kingdom, New Zealand, Australia, Japan, South Korea and Vietnam) as follows:

### 1.1.1 Mr. Tuan Anh PHUNG | Managing Partner

Vietnamese lawyer, trained in the United States with more than 20 years' experience practicing in domestic and international markets, including United States, Europe & Vietnam, in many fields, including but not limited to corporate, real estate, M & A, investment in securities, finance, banking, energy, infrastructure, tax & commercial litigation, intellectual property management & protection etc.

### 1.1.2 Mr. Kent Alan WONG | *Partner*

New Zealand lawyer, with 20 years of international experience in the United States, New Zealand, Korea & Vietnam, in the field of corporate, real estate, M & A, investment in securities, finance, banking, and intellectual property.

### 1.1.3 Mr David OH | *Special Counsel* | Corporate, Competition & ADR

David is in the firm's Ho Chi Minh City office and practices in corporate, investment, M&A and alternative dispute resolution. He previously worked extensively in matters involving competition law, franchising, alternative dispute resolution and general corporate advisory work in South Korea and Australia

### 1.1.3 Mr. Phuoc T. DOAN | *Senior Associate*

Vietnamese lawyer, trained in Japan with 12 years of experience in the field of corporate, M & A, investment in securities, energy, infrastructure, commercial litigation, intellectual property management & protection.

### 1.1.4 Other Senior associate and associates, paralegals in 2 offices (Hanoi & Ho Chi Minh City)

### 1.1.5 For more information about VCI Legal experts, please refer to the attached Company Profile.

1.2 *Specialization and experience in the field of operational management, hotel management, technical consultancy and licensing (see also the attached Company Profile - pages 18 to 29)*

## 2 Relevant Legal Experience

- 2.1 Ownership & Operating Issues Related to Hotel Management Agreement Provisions;
- 2.2 Terms related to fees, FF & E reserves, other costs (booking fees, incentives, technical service fees);
- 2.3 Performance testing time, concentrated services;
- 2.4 Interpretation of the “Service between the Agreements”;
- 2.5 Sales Capabilities (risk mitigation and reward for Operators);
- 2.6 Insurance compensation, destruction, damage and termination (with or without cause);
- 2.7 Leverage brands: hotels and neighborhood, using the intellectual property of the Operators & offering to the public;
- 2.8 Partners own the Brand Name of the International Hotel & Property Chain; Operators may use one or more brands of partners throughout the life cycle of the HMA;
- 2.9 Standards of Using Brand: related to cost of equity; Executives’ compliance of international standards and brand criteria;
- 2.10 Human Resource Management: interviewing applicants for key personnel (CEO, Marketing and Sales Director);
- 2.11 Dispute resolution;
- 2.12 Arrangement and negotiation of financial & investment solutions, valuation & work with banks and investment funds;
- 2.13 Capital Structure and Investment Scenario: Represent and assist banks to evaluate the value of HMA, operator, ownership issues and real estate values;
- 2.14 Negotiation of the acquisition of real estate, M & A transactions, due diligence and compliance and arrangement of loans, funding and payment guarantees among four parties: banks, investment funds, property developers and the guarantor; and
- 2.15 Negotiation with management companies, design companies and technical contractors

### 3 List of Major Projects

- 3.1 The complex of SHERATON CASA DEL AQUA (50 hectares)  
Negotiating and reviewing of the legal aspects of the Hotel Management Agreement ("HMA"), discussing and reviewing of contractual terms between the developer and the operator of the complex: **Jeju Development and Operations Company, Starwood Asia and Resorts-Pacific Pte.**
- 3.2 THE ONE 43 TON DUC THANG BUILDING, an office building & central apartment in Saigon Center worth USD 345 million

Representing M & C Joint Stock Company, developers, and owners to review, consulting and negotiating on Contracts for building design, management and technical supervision signed with the Contractor. Negotiating and resolving disputes with PVFC finance company to resolve the investment & loan for term bonds.

### 3.3 SOFITEL AND NOVOTEL HOTEL in Hanoi & Ho Chi Minh City

Representing **Central Plaza Vietnam** Company to review, consulting and negotiating on the Management Contract and Technical Service Contract signed with Accor SA, negotiating with Vietnamese partners on real estate ownership issues and valuation.

### 3.4 WYDHAM INTERNATIONAL MANAGEMENT (Established in Singapore)

Investment Value of USD 50 Million. Representing **Wydham** to reviews and advise on Management Contracts and Licensing Agreements with the local Development and Investment Company for the 5-star hotel & apartment project. This project is in Nha Trang, Vietnam.

### 3.5 CORNERSTONE BUILDING

Business value of USD 100 million. Representing VIB Bank - **Vietnam International Bank** and finance & real estate company to review: advising and negotiating the contract on real estate transfer and Management Contract and Technical Service Contract signed with the Japanese corporation, SA, one of the leading real estate management groups in the world with many projects being managed in Vietnam.

### 3.6 DAIBIRU DEVELOPMENT & MANAGEMENT

**Daibiru** is a leading real estate investment and management company in Japan. Advising on issues relating to management contracts for office buildings, lease agreements, and technical services. Licensing agreements, trademark issues, company issues, ownership rights, land use rights and property taxes.

### 3.7 MERIDIAN HOTEL & OFFICE TEL

Representing Tien Phuoc Development working with the investment, financing and real estate investment fund of *Goldman Sachs Hong Kong, Maple Tree & Temasek Holdings* to consider investment possibilities and financial solutions, assess profitability, operational efficiency, financial modeling and hotel, casino & office value.

### 3.8 ASIANA PROPERTIES - IREKA MALAYSIA CORPORATION

Agreement to invest, manage and develop the Hoa Lam Health Care Park complex and the complex project of hotels and apartments for lease in Nguyen Trai - Thanh Xuan, Hanoi

### 3.9 RESORT & 5-STAR HOTEL IN PHAN THIET, CAM RANH & PHU QUOC

Representing **Serenity Holdings**, a professional hotel & resort development, and management company: investment scale from USD 30 million to USD 50 million.

### 3.10 SUEZ-DEGREMONT GROUP

A global provider of real estate & infrastructure technical consulting & development: works with Vietnamese partners and regulators

### 3.11 GANH GIÓ RESORT

Hotel complex and 9-hole 5-star golf course in Phu Quoc: represent **NRH Ltd.** investors to get a license for investment, project design and sign contracts for designing, management, construction and financing solutions

### 3.12 CELADON INTERNATIONAL DEVELOPMENT

A professional real estate management and investment company focusing on 5-star hotels and resorts

### 3.13 BASON COMPLEX in the center of District 1 in Ho Chi Minh City with an initial value of USD 4 billion

Preparation of investment agreements, legal due diligence and tender documents for the company engaged in negotiation with the Ministry of Defense

### 3.14 GOLD, RED & GREEN SENLA SAIGON PROJECTS, boutique hotel chain and 6-star hotel, high-grade apartment and office building in central Ho Chi Minh City

Consulting and representing **Magnum Capital & International Management**, a Hongkong company, manager to review and advise on the Contract for Design, Management; Financial Consulting Contract; Technical Assistance Contract; and the Brand Licensing Agreement. Arranging, negotiate and arrange financial solutions in the investment, valuing and working with banks and investment funds.

### 3.15 The project of PLANT AND WATER SUPPLY PIPE DEVELOPMENT

Tae Young Vietnam, a subsidiary of Tae Young E & C Group in Korea, specializing in technical consultancy contracts, supervision and assistance to contractors in preparation & review of tender documents.

### 3.16 MACE VIETNAM CO., LTD

A foreign-invested company under MACE global corporation: Consulting & reviewing the contract of consultancy, design & technical supervision in accordance with FIDIC standard gold-book, silver book etc.

### 3.17 THAI Think CAPITAL GROUP HOLDING

A group of real estate and financial investment companies engaged many projects in cooperation with **Vinacapital**, **Dong A Bank**, and other joint-stock commercial banks: General experience includes investment structure, financial consulting, management consulting and technical advice; negotiation of real estate acquisition, M & A and arranging loans as well as capital and payment guarantee of four parties: banks, investment funds, real estate developers and guarantors.



3.18 LEVEL ONE BUSINESS CENTER SAIGON - KUMHO ASIANA BUILDING, belong to Kumho group in Korea

Representing **LevelOne Capital**, a real estate development, management, and leasing company based in Ho Chi Minh City to negotiate and sign office lease and management contract.

3.19 Short list of some major clients in real estate, management contracts, franchising, licensing / franchising, real estate lease contracts can be classified into 3 main groups as follows:

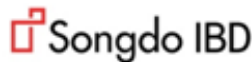
A. GOVERNMENT GROUP: the United States and the Republic of Finland in the field of land exchange, lease and real estate transfer



B. GROUP OF COMPANIES SPECIALIZED IN HOTELS & SERVICED APARTMENT MANAGEMENT



C. GROUP OF COMPANIES ENGAGED IN PROPERTY DEVELOPMENT AND OPERATING FOR LEASE



See also a detailed description of the clients and projects, that VCI Legal has involved in Appendix 1

#### 4 **Summary of Required Legal Services for Your Project**

According to the invitation letter, you are the investor and developer of the serviced apartment project in Tay Ho area, Hanoi ("**Project**"). This is a new project with more than 200 rooms and you are discussing with the Singapore management consulting company on the terms of the HMA Management & Operating Agreement ("MOA"), the Technical Consulting Agreement ("TCA") and the Trademark Licensing Agreement ("TLA"), which are subject to be signed with the Management Company. It requires a law firm to advise and assist the Client in reviewing and negotiating the terms of the aforementioned Agreements.

VCI Legal has legal obligations not to disclose clients' confidential information to any third parties unless the law requires us to do so and to provide clear and succinct legal advice to you. As you can see our past experiences, we have full experience in consulting and representation in hotel management contracts, technical service contracts as well as licensing agreements not only for investors, management companies, design companies, technical contractors, and real estate developers but also banks and financial institutions involved.

#### 5. **Scope of Work**

As per your request, VCI Legal will provide the following services:

##### 5.1 *Contract review and advice*

5.1.1 Reviewing the template of the Management & Operating Agreement, the Technical Consulting Agreement and the Trademark Licensing Agreement provided by you to ensure that:

- the terms in the Agreements comply with the provisions of Vietnamese law;
- the terms of the Agreements are in accordance with the commercial terms agreed upon by the parties to the Agreement; and
- the legitimate rights and interests of Van Phu – Invest shall be protected under Vietnamese law;

5.1.2 Reviewing of Vietnamese version of Agreement provided by the Operating Company, after the Draft in the English language of the Agreements agreed upon by the parties; and

5.1.3 Any other relevant legal issues upon your instructions.

##### 5.2 *Representing in negotiation and working with partners and third parties*

Upon completion of the review and consultation of the above Agreements, VCI Legal will:

- represent you to participate in negotiating with related parties on the above Agreement as requested by Van Phu Invest; and
- revise the Agreement according to the content and outcome of the negotiation and additional advice if necessary.

### 5.3 *Internal Counseling Services*

In addition to the proposed legal services, we are also able to advise you on various corporate matters through our “In-House Counsel Services”, with the most up to date information and guidance on an ongoing basis in regard to:

- Corporate governance, legal and compliance issues;
- Banking & Finance;
- Commercial contracts, transaction advice, sales & distribution;
- Employment, taxation, labor and human resources, employment benefits;
- Intellectual property management;
- Advertisement and marketing support; and
- Taxation and tax planning.



## Appendix 1

### EXPERIENCE IN MANAGEMENT, LICENSING AND REAL ESTATE DEVELOPMENT DRAFT, REVIEW, EVALUATE AND NEGOTIATE AGREEMENTS

Below are selected projects that VCI Legal' Experts engaged in:

#### A. EXPERIENCE IN VIETNAM

1. Bason Complex: USD 2.5 billion office-commercial-recreational-residential complex in the center of Ho Chi Minh City - 13 hectares
2. VIB Bank: USD 100 million M & A deal for an office building in Hanoi central
3. Phan Thiet Golf Resort & Entertainment: 600 ha
4. Serenity Fusion Alya Hoi An: 30 hectares
5. Phu Quoc Spa Resort: 22 hectares
6. Mango Bay Phu Quoc: 25 hectares
7. New World Hotel in Ho Chi Minh City - Hong Kong New World Group
8. Sofitel & Novotel in Ho Chi Minh City and Hanoi - Central Plaza
9. Industrial Park in Long An - Ho Chi Minh City - Hanoi (150-300 hectares)
10. Management of High Buildings: Central Districts in HCMC and Hanoi

#### B. INTERNATIONAL EXPERIENCE

1. Represent **Jeju Investment and Development Co. Ltd.** in negotiation with Starwood Asia-Pacific Hotels and Resorts Pte. Ltd. about the **Sheraton Jeju Casa Del Agua** (50 hectares)
  - 244 rooms for rent, minimum size 39m<sup>2</sup> / room (10% of room number)
  - 2300 m<sup>2</sup> of meeting space
  - 3 dining outlets, 1 lounges, 1 restaurant serving 3 meals, 1 specialty restaurant
  - Health club, spa and swimming pool

After successfully negotiating the terms stipulated in the Expression of Interest, we support to review and finalize the agreements, for example, as follows (for common terms, including ordinary representations, guarantee, compensation, dispute settlement, etc.)

(a) Operating Service Agreement – (**Starwood Asia-Pacific Hotels and Resorts Pte. Ltd.** and Jeju Investment and Development Co., Ltd. with Sheraton Overseas Management Corporation)

- Fees and expenses
- Hotel Operations - Operation Plan, Maintenance, and Repair,
- Capital improvement,
- Parking for staff
- Ownership issues
- Insurance
- Non-Intrusive

(b) Concentrated Service Agreement

- The right to use
- Concentrated services
- Fees and charges
- Ownership issues
- Marketing
- Booking

(c) System License Agreement

- License
- System using and
- Ownership issues
- Brand

2. **Berjaya Jeju Resort Financing** (a Residential, Commercial and Resort Complex worth USD 72 million)

Negotiated, reviewed and drafted loan & mortgage agreements for:

Berjaya Jeju Resort Ltd. (Borrower)

Korean Banks (Lender)

Berjaya Land Berhad (Guarantor)

3. **Legend Hotel, Ho Chi Minh City Financing** (transactional structure of two payments worth USD 60 million in total) through a special purpose fund and JVC).
4. **JW Marriott Yeouido, Seoul, Korea** M&A deal worth USD 39 million: we provided legal advice, due diligence, negotiated Terms of Purchase and Sale Agreement, Financial Structure, successfully executed the transaction
5. **Lotte Hotel Co. Ltd./Royal Bank of Scotland** Bank Guaranteed

## APPENDIX 2

## INTERNATIONAL AWARDS

Global legal listing and classification organizations, as well as international business law magazines, rank VCI Legal as one of the leading law firms in Vietnam in the fields of M & A, comparative law, banking, corporate, insurance, tax, intellectual property, and investment for many consecutive years with the awards:

■ **Chambers & Partners**

■ **Legal 500**

■ **IFLR 1000**

■ **Asialaw**

■ **Corporate INTL**

■ **Acquisition International**

■ **DealMakers 2014**

■ **Lawyer's World**

■ **ICFM Leading Lawyers**

■ **Financial Monthly**

■ **Corporate LiveWire**

■ **ACG Global**

■ **International Fund Award**

■ **Lawyer Monthly**

■ **Legal Comprehensive**

- *Leading Vietnamese corporate law firm of the year in 2012 – 2014,*
- *Leading M & A Law Firm of Vietnam in 2013,*
- *Top Real Estate Law Firm in 2012-2013,*
- *Leading Financial & Banking Vietnamese Law Firm in 2012-2013,*
- *Vietnam's leading capital market law firm in 2012-2013,*
- *Vietnamese leading law firm of the year in 2012-2013,*
- *M & A Law Firm in Vietnam in 2012-2013*
- *Top Law Firms in 2011-2013*
- *Top M & A Law Firm in Vietnam*

