CORPORATE GOVERNANCE MANUAL

UKRAINE
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UKRAINE
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This Manual is intended as a source of general information on corporate governance and is not intended, nor is it, legal advice. An independent lawyer should be consulted on all legal issues and questions.

As the laws in Ukraine are constantly and rapidly changing, legal references herein may be obsolete or superseded by new legislation by the date of the publication of this Manual and should be verified with an independent lawyer.

Any views herein are those of the authors and do not necessarily represent the view of the World Bank, the International Finance Corporation, or the British Know How Fund.

Mass Privatization and Post Privatization Development Project in Ukraine.

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PREFACE

(Translated from Ukrainian)

Considerable social and economic change has affected the development of market relations in Ukraine. While implementing vital market reforms, Ukraine has faced numerous problems which cannot be explained simply by objective factors. First, businesses experienced difficulties operating under new economic conditions. These difficulties resulted from the change in ownership from state to private hands and a lack of adequate knowledge required for effective management of enterprises under market conditions. Another significant deficiency has been the inability of enterprise managers to readjust and reorganize their activities to quickly meet the requirements of the current situation.

International Finance Corporation (IFC) is one of the international organizations which successfully cooperate with the Securities and Stock Market State Commission in the area of corporate governance.

Within the framework of the technical assistance Mass Privatization and Post-Privatization Development Project in Ukraine, IFC consultants actively participate in the development of new regulatory and legislative documentation, as well as conduct a comprehensive public awareness campaign on corporate governance issues. Development and publication of this Manual – one of the first editions in Ukraine dedicated to corporate governance issues – is an important result of IFC’s corporate governance efforts.

The value of this Manual lies in the fact that it combines extensive international experience and Ukrainian legislation, and takes into account the current economic situation in the country.

There is no doubt that this Manual will be useful for both shareholders and managers of joint stock companies, as well as for all those interested in corporate governance issues.

This Manual includes much practical advice and numerous interesting references to corporate governance experience of developed countries. It also includes debatable issues which allow for alternative viewpoints and different solutions.

Publication of this Manual is an important event in the area of corporate governance in Ukraine. We truly hope that this Manual will prove helpful to readers.

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Member of the Securities and Stock Market State Commission
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ABOUT THE WRITING AND LANGUAGE OF THE MANUAL

Many people contributed to this Corporate Governance Manual, which was written in and translated into Ukrainian, English and Russian. The basic writing was done by the local staff of International Finance Corporation (IFC) in Kyiv and for that IFC thanks Viktor Gorbatenko, Natalia Kosheleva, Alexander Okunev and Vladislava Ryabota. Parts of the Manual were contributed by Nadia Ryazanova in Kyiv and Humphrey Winterton, IFC consultant in London, and edited at length by Igor Greenwald. The greatest debt of thanks is owed to Oleh Kalchenko, the IFC translator who grappled with myriad versions of the Manual in three languages. Last, but not least, IFC’s thanks is extended to Joshua Rosenbaum, the former Project Manager of the IFC Mass Privatization and Post Privatization Project in Ukraine, Nadia Senyk, Deputy Project Manager for Legal and Policy Issues, and Andrew Torre, the Project’s Program Manager, for overseeing the creation and production of this Manual over the past year.

IFC considers the Ukrainian version of the Manual to be the "official" one, so it is, therefore, the Ukrainian version which will prevail in the case of any ambiguity in terminology. Given that fact, the English and Russian translations may have, in some instances, sacrificed form to preserve substance. Because of semantic differences among the three languages, the English may sometimes be more specific than the Ukrainian or Russian; for example, one word is used for both "governance" and "management" in both Ukrainian and Russian. The more appropriate word or both words have then been used in English, whereas the Ukrainian and Russian versions make no such distinction, except from the context.

Throughout the Manual there are intermittent references to both genders. Although the more frequent reference is male, it should be considered to include the female gender.

It is important to note that, since Ukrainian laws and regulations are in a great state of flux, the reader must always verify the current state of any law referred to in this Manual, preferably with the help of an independent lawyer. Also, the sample Charter and bylaws which are attached as appendices, as well as the sample proxies and other materials, are to be considered works in progress, as they are in the process of constant revision. The reader is invited to call the nearest IFC office in Ukraine to obtain the latest version of any document attached to the Manual.

This Manual was produced with the generous support of the British Know How Fund and the assistance of Diane Marshall, Aisha Zuberi and Project Adviser, Rachel Jones. IFC also wishes to extend its thanks to the Canadian International Development Agency for its contribution to the Manual through its funding of the IFC Corporate Governance Project in Ukraine.
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INTRODUCTION
INTRODUCTION

Mass privatization has transformed thousands of state-owned Ukrainian enterprises into open joint stock companies. Millions of Ukrainians now own shares in such firms, fueling public interest in effective management. This requires cooperation between shareholders, their representatives on company boards, and the professional managers they supervise.

Corporate governance is a system of elected and appointed bodies which govern the activities of an open joint stock company. It is intended to ensure that the management of the joint stock company reflects the interests of its owners in maximizing profits and share value within legal limits.¹

This Manual outlines possible structures and procedures for setting up and maintaining effective corporate governance and shows how the various parts interact. It is intended to give the reader enough information to know what needs to be done and what kind of expert help should be sought in order to accomplish it. This Manual is designed to inform shareholders, company officers, managers and board members alike of their rights and obligations within the corporate system.

The Manual makes reference to the principles of corporate governance generally accepted by the international community. Since most of Ukraine's large and midsize privatized enterprises have been organized as open joint stock companies, this Manual focuses on the laws and practices that apply to joint stock companies of this type. Its guidelines take into account applicable Ukrainian laws and regulations. Note, however, that Ukrainian legislation in this area is a work in progress. The Manual is, therefore, intended to supplement rather than replace professional legal and other advice.

A. An Open Joint Stock Company


A joint stock company (hereinafter the "Company") is an independent legal entity established for the purpose of earning profits from any and all lawful activities.

A joint stock company's Charter fund consists of a predetermined number of shares of equal nominal value. These shares entitle their owners to jointly exercise control over the

¹ The World Bank defines "Corporate Governance" as follows: Corporate Governance refers to that blend of law, regulation and appropriate voluntary private sector practices which enable the corporation to attract financial and human capital, perform efficiently, and thereby perpetuate itself by generating long-term economic value for its shareholders, while respecting the interests of stakeholders and society as a whole. The principal characteristics of effective corporate governance are: transparency (disclosure of relevant financial and operational information and internal processes of management oversight and control); protection and enforceability of the rights and prerogatives of all shareholders; and, directors capable of independently approving the corporation's strategy and major business plans and decisions, and of independently hiring management, monitoring management's performance and integrity, and replacing management when necessary.
Company's activities and share in its profits. Each shareholder has the right to own any number of shares, unless current legislation provides otherwise.\(^2\)

Shares of an open joint stock company are distributed by means of open subscription and are subject to purchase and sale at stock exchanges. Shares of a closed joint stock company are distributed privately among its founders and may not be sold on the stock exchange. In the West, open companies are commonly referred to as "public" companies and closed companies are referred to as "private" companies.\(^3\)

A joint stock company is not answerable to state agencies or other outsiders except as provided by law. Because a joint stock company is a separate legal entity, its owners (shareholders) cannot be held personally responsible for its liabilities, which are backed only by the Company's property, except in some very specific circumstances such as cases of dishonesty or fraud.

2. **Ownership of a Joint Stock Company**

Joint stock companies are owned by investors who hold the Company's shares. Individuals, legal entities, and the state as represented by the State Property Fund or other authorized state bodies of Ukraine are all allowed to be shareholders.

The proceeds from the sale of shares to investors are used by the Company to establish and finance its operations, which are aimed at meeting the objectives set by the shareholders.

*Sections IV and IX describe in greater detail how shareholder investments are used.*

The General Shareholders' Meeting constitutes the highest governing body of the Company. The Annual General Shareholders' Meeting is held at least once a year, and special meetings may be called at other times.

*The procedures for organizing and holding the Annual General Shareholders' Meeting are described in Section IV.*

3. **Management of a Joint Stock Company**

Although shareholders exercise overall control over the Company through the General Shareholders' Meeting, in practice they do not manage its day-to-day operations. Large open joint stock companies may have thousands of shareholders living throughout Ukraine and abroad. As a result, it is not practical to hold General Shareholders' Meetings

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\(^2\) For example, there are certain limitations on joint stock companies whose business is maintaining shareholders' registers of other enterprises. These enterprises may not hold more than a 10% stake in the Charter capital of a joint stock company which maintains their registers. (The Law of Ukraine "On the National Depository System and Specific Aspects of Electronic Circulation of Securities in Ukraine" dated December 10, 1997, #710/97-VR, Article 12, clause 1).

\(^3\) However, Ukrainian "closed" and "open" companies do not correspond exactly to western "private" and "public" companies, as there are some variations in Ukraine that do not exist in the West.
frequently. In their absence, shareholders delegate day-to-day management and oversight of the hired managers of the Company to others.

Ideally, the Company's strategic objectives are approved by shareholders at the Annual General Shareholders' Meeting upon the recommendation of the Board of Directors which determines the methods of achieving these objectives. Management executes the vision of the Board and its shareholders and ensures implementation of specific tasks. The Audit Committee verifies internal control over management activities.

As a practical matter, because the shareholders usually meet only once or twice a year, both the Board of Directors and Management do the preparatory work to help the General Shareholders' Meeting determine and approve the strategic objectives, often under the direction of the Chairperson of the Board of Directors.

When the General Shareholders' Meeting is not in session, the Board of Directors is the Company's highest decision-making body, exercising powers spelled out in the Company Charter or delegated to it by the General Shareholders' Meeting.

*The activities of the Board of Directors are described in greater detail in Section V.*

Management is responsible for the Company's daily operations. The key manager is the Chief Executive Officer, who is elected at the General Shareholders' Meeting or appointed as provided by the Company Charter. In Ukraine, other managers are also elected by the General Shareholders' Meeting.

In the West, the Chief Executive Officer ("CEO") is appointed by the Board of Directors, as may be a few other very senior officers such as the Chief Financial Officer. However, most other officers are then hired by the Chief Executive Officer or by his or her delegates. Management is supervised by the Board of Directors and carries out policies adopted by the General Shareholders' Meeting and the Board of Directors.

*Management is discussed in greater detail in Section VI.*

**4. Objectives of a Joint Stock Company**

The overall objective of an open joint stock company is to earn a profit. The specific goals and activities pursued in order to generate profits are set forth in the Company Charter, as approved by the General Shareholders' Meeting.

*The contents of the Company Charter are described in Section II.C. A model Charter is attached as Appendix #1.*

In order to achieve these goals, the management team, acting on behalf of the Company,
enters into necessary contracts and agreements and makes business and personnel decisions within the scope set forth in the Company Charter. Management decisions are usually guided by a business plan.

5. Advantages of Registering as a Joint Stock Company

In accordance with current legislation, Ukrainian business entities may take one of the following legal forms:

- **Joint Stock Company**
  A company with the Charter capital divided into a specific number of shares of equal face value. The Company is held liable for its obligations only to the extent of its property. The shareholders are liable for obligations of the Company only within the limits of the value of their shares.

- **Limited Liability Company**
  A company whose Charter capital is formed by contributions of the founders. The amount of each contribution is established in constituent documents. The founders are held liable for obligations of the Company to the extent of their contributions.

- **General Partnership**
  A partnership whose founders are jointly engaged in business activities and are held jointly liable for obligations of the Company with all their property.

- **Additional Liability Partnership**
  A company whose Charter capital is formed by contribution of its founders. The amount of each contribution is established in constituent documents. The founders are held liable for obligations of the partnership to the extent of their contributions and if these are not enough — with their property in proportion to their contribution to the Charter capital. Liability limits of the founders are spelled out in constituent documents.

- **Limited (mixed) Partnership**
  A partnership where one or more founders engage in business activities on behalf of the partnership and are liable for obligations of

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Registration as an open joint stock company is preferable for large enterprises with a great number of owners (shareholders). Open joint stock companies enjoy the following advantages:

- greater opportunities for attracting capital through additional share offerings, corporate bond issues, and loans obtained on favorable terms, etc.;
- the financial risk of shareholders is limited to the value of their shares (their stake in the Company's property);
- in accordance with current legislation and Company bylaws, shareholders can sell or otherwise transfer shares at their discretion without notifying other shareholders;
- the ownership and management functions are separated, giving shareholders wide discretion to employ a team of highly skilled managers.

The state participates directly in the management of the Company only to the extent to which it is entitled to do so by virtue of its ownership of the Company's shares. Once the state has divested itself of its shares, its influence on the Company's activities becomes indirect, i.e. through the enforcement of banking, taxation, customs and anti-monopoly regulations, and other laws.

**B. Why Follow This Manual?**

Companies serve a broad range of internal and external constituencies, such as founders, shareholders, management executives, consumers, suppliers, creditors, employees, pensioners, central and local governments, and the community at large. Each group has legal rights that it will seek to protect and interests it will try to advance.

For example, the Company has a duty to its host community to comply with environmental protection laws and pay local taxes. It has a duty to its creditors to comply with laws governing credit, pledges, liens and bankruptcy. And, in the interest of its employees, it must comply with the provisions of the Civil Code, Labor Code, and other laws protecting workers.

The management structure of a Company must be democratic enough to accommodate the interests of all of its constituencies. Also, following the suggestions described in this Manual will help the Company avoid penalties for failing to recognize the legally protected rights of its constituencies.
GENERAL OVERVIEW
OF A PRIVATIZED
COMPANY'S
REGULATORY
FRAMEWORK
II. GENERAL OVERVIEW OF A PRIVATIZED COMPANY'S REGULATORY FRAMEWORK

A. Laws Governing Privatization

As already indicated, numerous state-owned enterprises have already been transformed into open joint stock companies, in accordance with the Ukrainian Government's strategic policy of transferring state property to private ownership.

From the inception of the privatization process to its conclusion, the affected enterprise is subject to the laws and regulations governing privatization, which vary depending on the size of an enterprise and its industry sector. The basic law defining the economic and organizational issues involved in privatizing large and midsize enterprises is the Law of Ukraine "On the Privatization of State Property."¹ Distinct features of privatization in the agricultural sector are set out in the Law of Ukraine "On the Specifics of Privatizing Property in the Agricultural Sector."² Annual privatization targets are laid out in the State Privatization Program, which is approved by parliament.³ Privatization is also subject to a vast array of other laws, presidential decrees, Cabinet of Ministers resolutions, and orders of the State Property Fund of Ukraine.

B. Laws and Regulations Affecting a Privatized Company

Once it is registered as an open joint stock company, the Company comes under laws regulating entrepreneurial activities. This is the case even if the state retains a stake in the privatized enterprise. The applicability of certain regulations is determined on a case-by-case basis, and these require careful scrutiny by the Company's legal counsel.

1. Legal Rights and Duties of a Privatized Company

Ukrainian laws regulating privatized companies specifically allow them to engage in any activity not prohibited by law. Thus, a Company may:

- enter into contracts and agreements;
- make its own business decisions;
- obtain land for use or lease;
- hire and dismiss employees;

¹ The Law of Ukraine "On the Privatization of State Property" as amended and restated on February 19, 1997, #89/97-VR.
² The Law of Ukraine "On the Specifics of Privatizing Property in the Agricultural Sector" dated July 10, 1996, #290/96-VR.
³ In 1995 and 1996 such programs were enacted by presidential decrees.
• obtain loans and credit;
• open and maintain bank accounts;
• perform other legal actions.

Although companies enjoy considerable independence, they are constrained by regulations imposed for public policy reasons. A Company's failure to comply with such regulations may result in public inquiries and inspections exposing a Company, members of its Board of Directors and its managers to civil and criminal sanctions. In the West, the primary accountability for acts of the Company rests ultimately with the members of the Board of Directors or the officers of the Company who may be members of the Board or members of Management.

2. Laws Governing Entrepreneurial Activities

All companies must comply with laws governing entrepreneurial activities, including those that regulate:

• incorporation procedures, organizational structure of companies and their business conduct;
• anti-monopoly controls;
• privatization;
• taxation;
• the issuance and circulation of securities;
• currency controls;
• customs controls;
• legal relations with employees;
• protection of the environment;
• other types of legal relations.

The activities of all Ukrainian enterprises, irrespective of their form of ownership, are governed by the Law of Ukraine "On Enterprises in Ukraine". An enterprise becomes a legal entity once it is registered with the state administration at the actual location of the Company. Some companies are subject to additional regulations based on their structure and the nature of their business. The Law of Ukraine "On Companies" defines the basic types of companies and spells out the procedure for their creation and operation, as well as major requirements for constituent documents. This law governs the activities of all companies, including joint stock companies, created both during privatization and through amalgamation of private capital.
Companies must also comply with laws and regulations adopted by local governments in jurisdictions where they conduct business. Types of company activities which are subject to licensing requirements may be carried out only after the particular license has been obtained.

Privatized enterprises must comply not only with laws which are binding on all private enterprises, but may also be subject to special legislation covering their activities during and after privatization.

Companies must comply with laws and regulations governing activities in specific industries such as:

- energy;
- natural resources extraction and use;
- telecommunications;
- military technologies;
- stock market operations (including investment companies and funds, brokerage and securities dealers);
- insurance.

C. The Joint Stock Company Charter

In accordance with the Law of Ukraine "On Companies", every company must have a Charter. Within the Company, the Charter fills the role of a constitution; it is the principal, legally binding document governing the business and affairs of the Company and defining, among other things, the major rights and obligations of shareholders.

The requirements of the Company's Charter are binding on all Company bodies and shareholders. The Charter specifies the Company's founding objects, its activities and various internal governance and management bodies. To legally establish a Company, its shareholders must register the Company Charter with the local state administration in the jurisdiction where the Company's headquarters are located.

5 The Law of Ukraine "On Companies", Articles 4 and 37.
6 International Finance Corporation, with input from Financial Markets International, Inc., a USAID contractor, has developed a model Charter for an open joint stock company which is attached as Appendix #1.
7 During privatization, Charters of joint stock companies are registered pursuant to a somewhat simplified procedure. However, this simplified procedure does not apply to introduction of amendments and alterations to the Charter. Amendments and alterations to the Charter are registered pursuant to the Regulation on State Registration of Business Entities, approved by Resolution of the Cabinet of Ministers of Ukraine dated May 25, 1998, #740.
The Charter must be available for review by all shareholders, investors, auditors and others granted access by applicable Ukrainian legislation. The Charter is an important source of information for prospective shareholders of the Company.

1. **Contents of the Charter**

In accordance with the Law of Ukraine "On Companies" the Charter must specify:

- the type of Company;
- name and location of the Company;
- objective of the Company's activities;
- names of the Company's founders and investors;
- valuation of the Company's Charter fund and the procedure for its creation;
- information on the type of shares to be issued, their par value, the relative proportions of the different classes of shares, number of shares to be purchased by the founders, and the consequences should a buyer of stock fail to pay for his shares;
- the procedure for distribution of profit (including payment of dividends) and coverage of losses;
- the structure and scope of the powers of the Company's governing and other bodies and their decision-making procedures;
- the procedures for amending the Company's Charter and other founding documents;
- restructuring and liquidation procedures.

The Charter may also include other provisions as long as they do not contradict applicable Ukrainian legislation.

2. **Limitations of the Charter**

The Charter does not usually specify in detail the procedures by which the shareholders, members of the Board of Directors and Management govern the Company's activities. These are established in the course of business and with reference to other internal regulatory documents approved by the General Shareholders' Meeting or the Board of Directors.⁹

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⁸ The Law of Ukraine "On Companies", Articles 4 and 37.
⁹ For example, see Rules of Order of a General Shareholders' Meeting and bylaws on the Board of Directors, Management, and the Audit Committee, which are attached as Appendices #2-5 to this Manual.
These documents supplement and extend provisions of the Charter and are also easier to amend and correct than the Charter. The main requirement in drafting internal regulatory documents is their consistency with the Charter. Norms established by internal documents that are inconsistent with the Charter are not valid.

3. **Amending the Charter**

Since the Company's Charter is an "internal law" of the Company it should be reviewed to accommodate changes in, or expansion of, the Company's activities. For example, the Charter should be amended to reflect:

- a change in the activities and objectives of the Company's operations;
- a change in the Company's address or the expansion of its operations abroad;
- an increase or decrease of the Company's Charter capital;
- a change in the structure and authority of the Company's governing or other bodies;
- other changes.\(^{10}\)

In accordance with the Law of Ukraine "On Companies", Charter amendments must be adopted by a majority of three-quarters (3/4) of the shareholders represented at a General Shareholders' Meeting. Resolutions to approve the amended Charter require the same three-quarters (3/4) majority.\(^{11}\)

Amendments to founding documents (such as the Charter and the Articles of Association) may be executed and attached as appendices, or may be incorporated by reference. These are fully enacted only upon registration with the authority that originally registered the Company.

A Company must be re-registered in the following cases:

- change of the Company's name;
- change of the Company's organizational and legal form (e.g., if an open joint stock company is restructured into a limited liability company);
- change of the form of ownership.

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\(^{10}\) For example, in the case of expansion of the types of activities carried out by the Company, modification of the procedure for reorganization of the Company, etc.

\(^{11}\) The Law of Ukraine "On Companies", Article 42.
In the case of re-registration, the Company must develop a new Charter. Re-registration of business entities is carried out pursuant to the procedure established by regulation.\textsuperscript{12}

\textsuperscript{12} The Regulation "On State Registration of Business Entities", Clause 21.
SHARES
AND OTHER SECURITIES
OF THE JOINT
STOCK COMPANY
A. What are a Joint Stock Company's Securities?

1. General Provisions on Securities

One way of raising financing for a Company's activities is in the stock market by issuing and circulating the Company's securities. Securities are financial instruments certifying either ownership rights or creditor-debtor relations; they characterize the relations between the issuer and the owner of such securities. As a rule, securities provide for the payment of income derived from such instruments either in the form of dividends or interest. In addition, securities envisage the possibility of the transfer of monetary or other rights granted thereunder to other persons.

In all economies, securities have certain value. Similar to money, they serve as a means of circulation and payment, and can be used as credit instruments and simplify the transfer of title to various benefits.

Securities are subdivided into the following groups:

- **equity securities** (shares);
- **promissory (debt) securities** (bonds, bills of exchange, savings certificates, etc.);
- **derivative securities** (stock derivatives);
- **privatization papers** (privatization property certificates, housing certificates, land certificates).

The large-scale issuance of securities, and the development of their market, are very important for private sector development. Securities provide alternative financing for different branches of the economy, together with the use of other sources such as budget, company assets, loans.

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1 Stock market (securities market) — a part of the borrowed capital market dealing with the issuance and circulation of securities.
3 Ukrainian stock market operation and development concept, as approved by Resolution of the Verkhovna Rada of Ukraine dated September 22, 1995.
4 A derivative is a standard document certifying a future right and/or obligation to purchase or sell securities, capital (foreign currency and other assets that can be used instead of currency), tangible or intangible assets (commodities) on certain conditions. (Issue and circulation rules for stock derivatives are approved by a Resolution of the Securities and Stock Market State Commission dated June 24,1997, #13, paragraph 1). A stock derivative is a derivative of a security which the Securities and Stock Market State Commission has decided shall be considered a derivative security, such as an option or futures contract in accordance with paragraph 5 of Article 1 of the Law of Ukraine "On State Regulation of the Stock Market in Ukraine" dated October 30, 1996, #448/96-VR.
2. Shares of a Joint Stock Company. Types and Categories of Shares

A share is a security which certifies partial participation in the Company's Charter capital and grants corporate rights to its owner.

As established by current legislation of Ukraine, the notion of a share clearly defines special property rights for its holder to share in Company profits and to receive a share of the Company's assets in the case of its liquidation. Except in cases of liquidation, the Company is not obliged to return to a shareholder his contribution to the Charter capital of the Company or to redeem his shares. The shareholder may recoup his contribution by selling his shares at market price on the secondary (stock exchange or over-the-counter) securities market.

Applicable legislation limits the liability of shareholders for the Company's obligations to the value of their shares. For instance, if the Company goes bankrupt, the shareholder only risks losing the assets he contributed in exchange for the Company's shares.

Holding a share does not create a relationship of employment between its holder and the Company.

In Ukraine, only joint stock companies are entitled to issue shares. Shares issued by the Company may be classified as follows:

a. Types:

- **Registered share**
  
  *An equity security which identifies the owner who is entitled to all corporate rights certified by this security.*

- **Bearer share**
  
  *An equity security which does not identify the owner. The holder of such a share is entitled to all corporate rights certified by this security.*

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5 Companies created during privatization are the exception to the general rule. These Companies must carry out a valuation of shares, based on the balance sheet value of Company assets, and redeem shares held by shareholders who demand redemption if they voted against the following decisions adopted by the General Shareholders' Meeting:
- reorganization of the Company;
- conclusion of an agreement or several related agreements on the sale/purchase of Company assets where the value exceeds 50% of the balance sheet value of Company assets as of the date of the adoption of such a decision.

Privatization Program for 1998, section 5, clause 90.

6 Market price: the price formed under the influence of supply and demand.

b. Categories — Common and Preferred Shares.

- **a Common share**
  
  An equity security which entitles the owner:
  - to participate in overseeing the management of the Company;
  - to share in the Company's net profit after payment of dividends on preferred shares;
  - in the case of liquidation, to receive a share of the Company's assets after settlement with the State, other creditors and holders of preferred shares.

- **a Preferred Share**
  
  An equity security which entitles the owner:
  - to a priority right to receive dividends;
  - to a priority right over the owners of common shares to receive a share of the Company's assets in the case of liquidation.
  
  Unless otherwise provided by the Charter, holders of preferred shares are not entitled to participate in the management of the Company (i.e. they cannot vote at shareholders' meetings).

c. Types of Share Issues

- **documentary**
  
  Documentary share issues involve the production of share certificates under rules established by the Securities and Stock Market State Commission.

- **non-documentary**
  
  In the case of a non-documentary share emission, the Company issues a single global certificate for the total value of its share emission and transfers it into the custody of a selected depository.

It is worth noting that the most prevalent shares in the Ukrainian market are common registered shares.

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8 Share certificate — form of certificate issued to the owner of a security which includes the requisites established by current legislation and certifies the right of ownership to the security.

9 A global certificate is a document issued for the total value of a non-documentary share emission which certifies the right to execute transactions with these securities within the National Depository System.
In order to determine what kind of shares are to be issued, it is necessary to take into account the restrictions imposed by applicable law, in particular:

- only **common registered** shares\(^{10}\) may be issued during privatization of property of state-owned enterprises through their transformation into open joint stock companies;

- preferred shares may not be issued for a total value exceeding 10% of a joint stock company's Charter capital.\(^{11}\)

The issue of a particular category of shares also depends on who will be a potential purchaser of shares to be issued by the Company. When issuing securities, the Company should take into consideration the interests of potential investors and the objectives they can achieve by purchasing a particular category of the Company's shares. Potential investors may want to have control over the management of the Company by purchasing common shares or to minimize investment risk with guaranteed profit and preferred rights to the return of funds in case of the Company's liquidation, by purchasing preferred shares.

A Company's shares may be paid for in cash, securities, tangible assets, and property rights. The form of payment for shares is established in the Charter of the Company. Irrespective of the form of payment, the value of shares shall be expressed in Ukrainian currency.

3. **Other Joint Stock Company Securities**

A **bond** is a security which certifies that its owner has made a cash loan and confirms the Company's obligation to repay to its holder the face value of the security upon certain terms, together with fixed interest, unless otherwise provided by the terms of the bond issue.\(^{12}\)

Bonds are also issued for the following reasons:

- to attract additional capital without affecting the existing shares of shareholders;

- to attract capital at an interest rate less than that imposed by banks and other financial institutions;

- to provide fixed, long-term interest;

- to provide an effective and accessible way to attract direct loans from potential investors;

- to expand and diversify the Company's credit resources;

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SHARES AND OTHER SECURITIES OF THE JOINT STOCK COMPANY

- to establish a credit rating for the Company, demonstrating its credit capacity (solvency).

Bonds may be issued in registered or bearer form, interest and interest-free (with specified options), freely circulated or with restricted circulation.\textsuperscript{13}

In accordance with applicable Ukrainian legislation, open joint stock companies may issue bonds for amounts not exceeding 25\% of the Charter capital and only after all previously issued shares have been paid in full. Companies may not issue bonds in order to form and increase the Charter capital or to cover losses related to their economic activities.\textsuperscript{14}

A \textit{promissory note} is an unconditional promise of one party to repay a specified amount to another party at a certain time and place.

A promissory note is a versatile financial instrument used to buy products and services on credit and to receive loans. Circulation of promissory notes speeds up settlements and provides additional loan options.\textsuperscript{15}

\section*{B. Requirements for the Transfer of Shares}

\subsection*{1. Free Transfer of Shares}

Common registered shares of open joint stock companies issued during privatization may be freely circulated, which means that shareholders may dispose of their shares without limitations. They may sell or otherwise alienate them to other legal entities and individuals, unless otherwise provided by applicable legislation.\textsuperscript{16} Issuers of shares, that is, companies, are forbidden from imposing restrictions not provided by law on the alienation of shares acquired during privatization.\textsuperscript{17}

\subsection*{2. Transfer of the Right of Ownership to Registered Shares}

The right of ownership to registered shares issued in non-documentary form is deemed to have been transferred to a new owner (holder) from the date the shares were deposited to

\begin{itemize}
\item The Law of Ukraine "On Securities and the Stock Exchange", Article 10.
\item The Law of Ukraine "On Securities and the Stock Exchange", Article 11.
\item The main legal acts regulating the circulation of promissory notes in Ukraine are:
  \begin{itemize}
  \item The Law of Ukraine "On Securities and the Stock Exchange";
  \item Resolution of Verkhovna Rada of Ukraine "On the Application of Promissory Notes in Ukrainian Economic Circulation" dated June 17, 1992, #2470-XII;
  \item Regulation on bills of exchange and promissory notes, approved by Resolution of CVK and RNK of the USSR dated August 7, 1937, #104/134;
  \item Promissory Note form preparation and application rules approved by Resolution of the Cabinet of Ministers and of the National Bank of Ukraine dated September 10, 1992, #528.
  \end{itemize}
\item The only restriction, imposed by applicable law with reference to the alienation of shares acquired via privatization is that transactions with shares may be conducted only after information on their purchaser as well as other information, determined by law, is entered into the register of holders of registered securities (Article 27, clause 7 of the Law of Ukraine "On the Privatization of State Property".
\item State Privatization Program for 1998, Section 5, clause 89.
\end{itemize}
SECTION III

the holder's account with a custodian of securities. Ownership rights must also be certified by a statement of account that a custodian must provide to the holder of shares.

Registered shares issued in documentary form are transferred to a new owner through endorsement in full. A share certificate certifies the right of ownership to registered shares issued in documentary form.

The right to participate in the management of the Company, receive dividends, and exercise other rights vested in registered shares starts from the date the share transfer has been made in the Company shareholders' register.

3. Shareholders' Register

The shareholders' register is the list of shareholders (owners of registered securities) and nominal holders of shares compiled as of a certain date. As one of the major corporate documents of the Company, it identifies the shareholders and the number, par value and categories of shares that they hold. Shareholders are entitled to all legal rights only after they have been entered into the shareholders' register.

The register of shareholders is maintained in order to comprehensively and fully secure the rights of shareholders and to control circulation of the Company's shares.

From the issuer's point of view, the correct and independent registration of share ownership is a way of attracting both domestic and foreign capital. The existence of an efficient registration system for securities holders is, from the potential investor's point of view, a guarantee of his corporate rights.

The shareholders' register may be maintained by:

- **the issuer of securities** 
  Is entitled to maintain its own register if the number of security holders does not exceed 500 and the issuer holds a valid license.

- **an independent registrar** 
  Which has a valid license issued by the Securities and Stock Market State Commission.

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18 Custodian of securities — commercial bank or stock broker licensed to keep custody of securities and provide service to accounts during the circulation of securities.
20 Nominal holder — depositary or custodian of securities licensed as a registered security holder, that is, a legal entity to which securities have been transferred to carry out transactions within the National Depositary System on behalf of and in the interests of security holders.
21 The legal grounds for establishing and keeping the register are established by the Regulation on the Procedure for Keeping the Register of the Holders of Registered Securities, approved by Order of the Securities and Stock Market State Commission dated May 26, 1998, #60.
22 The procedure for obtaining a license is governed by the Procedure for Issuing Licenses for Carrying Out Activities Related to Keeping the Register of the Holders of Registered Securities, approved by Order of the Securities and Stock Market State Commission dated June 23, 1998, #79.
SHARES AND OTHER SECURITIES OF THE JOINT STOCK COMPANY

This is a business entity engaged exclusively in maintaining registers of holders of registered securities and prohibited from combining them with other types of activity, except depository activity.

The following major functions are performed by the registrar:

- establishing a register of shareholders (holders of registered securities), i.e., the step-by-step entry of information related to the issuer, the shares issued, the shareholders and the shares held by them;

- updating and amending the register of shareholders and correcting data related to persons entered into the register;

- rendering services to the issuer related to registration activities:
  - assistance in preparing and holding the General Shareholders' Meeting;
  - calculating and paying dividends;
  - providing consulting services on the circulation of securities and registration of the right of ownership to securities.

Access to the shareholders' register is restricted to those persons entitled to receive such information, including:

- the issuer;

- registered persons or entities;

- state agencies acting within their respective powers as provided by law.

The issuer has the right to obtain all information contained in the register but does not have the right to disclose it.

Registered persons are entitled to obtain information relating to their personal accounts. They have no right to receive information relating to other holders or to shares held by others.

Access of state agencies and establishments to the registration system is granted in accordance with applicable law on the basis of a written request, signed by the appropriate officer and sealed by the state agency requesting the information. Authorized government officials are entitled to obtain information from the registration systems within the limits of their powers as specified by current legislation of Ukraine.

All other persons are denied access to information in the register.
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- retained by the Company.

Decisions on the distribution of profits are made annually by the Annual General Shareholders' Meeting. Dividends are distributed proportionately based on the stake in the Charter capital held by each shareholder.5

_The Company's dividend policy is discussed in greater detail in Section IX._

As previously noted, if two or more classes of shares have been issued, dividends are calculated differently for each class.

_See discussion of common versus preferred shares in Section III._

b. Right to Participate in Decision-Making

Shareholders control the long-term direction of the Company by electing members of the Board of Directors and top managers and voting on other important matters at the General Shareholders' Meeting. General Shareholders' Meetings may be:

- regular (at least once per year based on year-end results);
- extraordinary (convened at any time as required, provided that specific requirements are met).7

By law, the General Shareholders' Meeting has the authority to make the following decisions:

1. determine the Company's overall mission and strategy;

2. amend the Company Charter including amendments resulting from the change in the amount of its Charter capital;

3. elect and remove from office members of the Board of Directors, top managers and members of the Audit Committee;

4. approve annual reports, financial statements and balance sheet of the Company and its subsidiaries, as well as the report of the Audit Committee;

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4 Article 9 of the Law of Ukraine "On Securities and the Stock Exchange" and Article 37 of the Law of Ukraine "On Companies" allow dividends to be paid only on the basis of year-end results. In other countries, interim dividends can be paid quarterly or semi-annually.
6 The Law of Ukraine "On Companies", Article 41. This differs from prevalent international practice, which allows the Board of Directors to appoint members of Management.
7 The Law of Ukraine "On Companies", Article 45.
8 The Law of Ukraine "On Companies", Article 41.
5. adopt decisions on the allocation of profit, including payment of dividends, and the coverage of losses;

6. establish, close or reorganize subsidiaries, affiliates and representative offices, and approve their charters and regulations;

7. approve Company regulations and other internal documents, as well as the Company's organizational structure;

8. set compensation for top officers of the Company, its subsidiaries, affiliates and representative offices;

9. make financial claims against Company officers;

10. approve share buybacks by the Company;

11. approve especially large transactions which exceed a figure specified in the Company Charter;

12. decide to close the Company, appoint a liquidation commission and approve the liquidation balance.

The General Shareholders' Meeting may also decide other matters which it is authorized to consider by the Company's Charter, such as, for instance, the right to approve the Company's business plan. At the same time, the Charter may authorize the Board of Directors or Management to perform certain functions or the General Shareholders' Meeting itself can delegate some of its powers to the Board of Directors and Management (with the exception of powers 2, 4, 5, 6, and 12 in the list above).

Because of their right to shape crucial decisions, shareholders are the most powerful group within the Company. This is more apparent in companies that have few shareholders. When thousands of owners are involved, they may need to consolidate their votes through proxies and/or powers of attorney, or through investment funds in order to safeguard their influence.

c. Right to Sell Stock

Shareholders of an open joint stock company have the right to sell some or all of their shares to any person, for any price, without the consent of the Company and other shareholders. This is a fundamental right of a shareholder.

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9 Although Ukrainian legislation does not require annual business plans, in the West these are considered essential management tools. The business plan describes in detail the Company's planned activities, basic targets for the Company's development during the next year and longer-range forecasts.

10 The Law of Ukraine "On Companies", Articles 46 and 47.

d. The Right of First Refusal to Buy Additionally Issued Shares

In order to maintain their proportional ownership stake in the Company if it issues additional shares, shareholders have a right of first refusal to buy additional shares when they are issued.\textsuperscript{12} It is advisable to establish the procedures by which shareholders can purchase additionally issued shares by a special bylaw of the Company.

e. The Right to Participate in the Distribution of the Company's Property in the Event of its Liquidation

If the Company goes out of business, its shareholders are entitled to divide any capital remaining after the company has settled its accounts with all lenders and creditors in accordance with the priorities set out by law.\textsuperscript{13}

All these shareholders' rights (outlined in section A2) typically apply to the holders of common shares. If the Company has more than one class of shares, the rights of different classes will vary.

*Share classes and the distinctions between them are set out in Section III.*

3. Protecting Shareholders' Rights

The protection of shareholders' rights is crucial to the Company's ability to attract capital. In a developing capital market such as Ukraine's, special attention should be given to the rights of minority shareholders, who are particularly vulnerable.

In general, shareholders are protected by various laws and regulations, as well as by internal Company bylaws. The market also tends to punish companies that fail to uphold shareholders' rights by driving down the value of their shares. When such protections fail, shareholders can appeal to the following institutions:

- the General Shareholders' Meeting, *under rules of procedure described in Part B of this Section*;
- the Board of Directors of the Company, *under rules of procedure described in Section V*;
- Securities and Stock Market State Commission and its regional offices;\textsuperscript{14}

\textsuperscript{12} The Law of Ukraine "On Companies", Article 38.
\textsuperscript{13} The Law of Ukraine "On Companies", Article 21. *(The procedures for launching and conducting liquidation of a Company are described in Section XI).*
\textsuperscript{14} The Commission's powers are set by the Law of Ukraine "On State Regulation of the Securities Market in Ukraine" dated October 30, 1996, #448/96-VR.
4. **Shareholders' Duties**

Under Ukrainian law, the major duty of a shareholder is to pay the full price for his shares within the time period specified in the Company Charter, but no later than a year from the date they are issued.\(^{16}\)

In addition, in some western jurisdictions, the Company's major shareholders may have a fiduciary duty to the Company and other shareholders arising from their control over the Company's decisions.

In addition, the Company's shareholders undertake:\(^{17}\)

- to comply with the requirements of the Company Charter and the decisions of the General Shareholders' Meeting and other governing bodies of the Company;
- to refrain from disclosing any commercial secrets or other confidential information about the Company;\(^{18}\)

Shareholders who are employees of the Company do not generally face any additional obligations as shareholders, unless they have significant inside information that other shareholders do not have. Shareholders who are also employees may not be disciplined as employees by the denial of their rights as shareholders, for example, withholding of dividends or withdrawal of shares.

**B. General Shareholders' Meetings**

The General Shareholders' Meeting is the highest decision-making body of the Company, allowing shareholders to exercise their right as owners to direct and control the Company.

1. **Annual General Shareholders' Meetings**

Because of the practical difficulties involved in assembling meetings of large numbers of shareholders, shareholders at many companies usually meet only once a year at the Annual

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\(^{15}\) The Law of Ukraine "On the Prosecutor's Office" dated November 5, 1991, #1789-XII.

\(^{16}\) The Law of Ukraine "On Companies", Article 33.

\(^{17}\) The Law of Ukraine "On Companies", Article 11.

\(^{18}\) The confidentiality clause is guided by the requirements of Chapter IV of the Law of Ukraine "On Protection from Unfair Competition" dated June 7, 1996, #236/96-VR. At the same time, one should bear in mind that certain information cannot be considered a commercial secret by law (See Resolution of the Cabinet of Ministers of Ukraine "Regarding the List of Data Omitting Commercial Secrets" dated August 9, 1993, #611).
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General Shareholders' Meeting. Open joint stock companies are required to hold General Shareholders' Meetings at least once a year, or more frequently if the Company Charter so specifies. The first Annual General Shareholders' Meeting must be held no later than one year following registration of the Company.19

Annual General Shareholders' Meetings must be timed so that they can approve the Company's annual financial statements.20 In Ukraine, the Company is required to provide such annual reports to the tax authorities21 no later than February 15 of the following year. So it is often convenient to hold the Annual General Shareholders' Meeting before this time.

Shareholders also use the Annual General Shareholders' Meeting to review the performance of the Company and its officers during the previous year, and to make decisions about the Company's further activities.

For a more detailed description of the issues decided by shareholders, refer back to Part A.2(b) of this Section.

2. Extraordinary Shareholders' Meetings

All General Shareholders' Meetings other than the regularly scheduled Annual General Shareholders' Meeting are considered extraordinary. Extraordinary General Shareholders' Meetings are convened:

- if the Company is insolvent;
- under conditions specified by the Company Charter;
- to decide issues that could have a significant impact on the Company and its shareholders.

Company Management is required to schedule an Extraordinary General Shareholders' Meeting within 20 days of receiving a written request22 from:

19 Companies created via privatization must hold a General Shareholders' Meeting within two months of the completion of the sale of shares under the privatization plan. If the privatization process is prolonged, the General Shareholders' Meeting should be held within a year of the registration of the open joint stock company. See Article 7 of Resolution #1099 of the Cabinet of Ministers of Ukraine "On Approval of the Procedures for the Transformation into Joint Stock Companies in the Course of Privatization of State-Owned, Leased Enterprises, and Enterprises Combining Different Forms of Ownership". A General Shareholders' Meeting may also be held at any time its approval is required to allow the Company to participate in holding companies and financial-industrial groups, or to make a contribution to the Charter capital of other business entities. (See Article 88 of Section 5 of the State Privatization Program for 1998).

20 The Law of Ukraine "On Companies", Article 41(e).

21 Clause 77 of the Regulations regarding Organizing the Book-Keeping and Accounting Reporting in Ukraine, approved by Resolution of the Cabinet of Ministers of Ukraine, dated April 3, 1993, #250. The same accounting reports must also be made available to other public regulatory agencies.

SHAREHOLDERS

- the Company's Board of Directors;
- the Audit Committee;
- any shareholders or group of shareholders holding in the aggregate more than 10% of the Company's shares.  

Extraordinary General Shareholders' Meetings can decide the same range of issues as Annual General Shareholders' Meetings, with the exception of approving annual reports. The agenda of an Extraordinary General Shareholders' Meeting must include all issues proposed for discussion by the group that requested the meeting in sufficient detail for shareholders to be able to form a reasoned judgment on the issue.

3. Preparations for a General Shareholders' Meeting

The procedure for convening General Shareholders' Meetings, whether annual or extraordinary, is set out in Article 43 of the Law of Ukraine "On Companies".  

Given the importance of the General Shareholders' Meeting, Company Management and the Board of Directors usually work closely together to avoid and resolve potential problems arising from the many details of holding such a meeting. Logistical and technical aspects of preparing and conducting a General Shareholders' Meeting are entrusted to an organizing committee established by Management. Management must clearly spell out the organizing committee's duties and powers which are usually set out in a Company bylaw.

See Appendix #6 for a schedule of recommended measures involved in convening a General Shareholders' Meeting.

One of the most important tasks facing organizers of the General Shareholders' Meeting is to prepare the agenda for the meeting. Most Annual General Shareholders' Meetings use a standard agenda that includes the following items:

- approval of the annual report summarizing the Company's financial performance in the preceding year;
- approval of major agreements negotiated by the Company and of internal bylaws and regulations;
- election of the Company's governance and management bodies.

23 If Management fails to meet that deadline, the group demanding the meeting is entitled to convene it on its own at the Company's expense.
24 The law provides few specifics. In order to hold the meeting successfully, the first General Shareholders' Meeting should adopt Rules of Order spelling out in detail the procedures for preparing, calling, and holding the General Meeting. See typical Rules of Order in Appendix #2.
25 The complete powers of the General Shareholders' Meeting are set out in Article 41 of the Law of Ukraine "On Companies" and Section IV of this manual.
The agenda of an Annual General Shareholders' Meeting is set by Management of the Company as agreed upon with the Board of Directors. Shareholders can propose items for inclusion in the agenda, and any group or individual holding at least 10% of the voting shares can insist that an agenda item be included.

Procedures for preparing an agenda are described in greater detail in Appendix #6.

Management working in concert with the Board of Directors is required to submit the following documents for the consideration and approval of an Annual General Shareholders' Meeting:

- the Company's balance sheet;
- annual report of the Company;
- annual report of the Audit Committee.

4. Conducting a General Shareholders' Meeting

Any shareholder of the Company, regardless of the number or class of shares held, can attend the General Shareholders' Meeting or authorize someone else to attend and vote in his stead by means of a proxy. In international practice, very few shareholders of large companies attend General Shareholders' Meetings in person. Most give their proxies to their representatives on the Board of Directors or to their investment advisers or managers who manage their investments.

In addition, potential investors, employees, government officials, journalists and other guests may attend provided that they have secured permission to do so.

Ukrainian law does not regulate who presides at the shareholders' meeting. In the West, the Chairman of the Board of Directors usually presides. In Ukraine, this function is often performed by the Chief Executive Officer which is not recommended. In the West, it is customary for the Chief Executive Officer to make an oral report at the meeting and answer questions. It is recommended that the General Shareholders' Meeting be chaired by the Chairman of the Board of Directors or, at a minimum, by a shareholder who is not part

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26 This issue is not spelled out in detail by law. In the absence of legislation, the agenda should be prepared and submitted for discussion by the organizers of the General Shareholders' Meeting. Extraordinary General Shareholders' Meetings adopt an agenda submitted by the group that called the meeting (Article 45 of the Law of Ukraine "On Companies").

27 As a general rule, proxies submitted by individuals must be notarized. However, proxies to participate and vote at the General Shareholders' Meeting may be certified by the registrar or Company Management (Article 41 of the Law of Ukraine "On Companies"). Proxies submitted by organizations or companies (as opposed to individuals) need only to be signed by the organization's manager and stamped with the organization's official seal. See sample proxy in Appendices #10-12.

28 See Appendix #2 for possible options regarding participation of above persons in the General Shareholders' Meeting.

29 This oral report is in addition to any written report that the Chief Executive Officer may have provided in the Annual Report or at the Meeting.
SHAREHOLDERS

of Management. It is useful to name the presiding officer in the bylaws relating to the
General Shareholders' Meeting Rules of Order. (See Appendix #2).

A General Shareholders' Meeting can be held only if shareholders holding in the aggregate
more than 60% of the voting shares\(^{30}\) are present in person or represented by a proxy. If
that quorum is not present, Management must reschedule the meeting.

A General Shareholders' Meeting should start by adopting Rules of Order, which will
govern how it discusses issues and votes on them.

*The procedure for holding the General Shareholders’ Meeting is described in more detail in Appendix #7.*

Following the Rules of Order, the presiding officer of the General Shareholders' Meeting
submits for the shareholders' consideration and discussion each of the issues included in
the agenda. The General Shareholders' Meeting may not decide issues that were not
included in the agenda.\(^{31}\)

After each issue is discussed, a vote is taken. Company Charter amendments as well as
decisions to liquidate the Company and to open or close subsidiaries, affiliates and
representative offices, require the approval of shareholders holding in the aggregate 75% of
the voting shares. Other motions can be approved by a simple majority.

The Secretary of the General Shareholders' Meeting ensures that issues discussed or raised
at the meeting, together with any decisions made, are recorded in the minutes of the
meeting.

The decisions of a General Shareholders' Meeting are binding on all shareholders, whether
or not they were present, provided that they had due notice of the meeting. The decisions
are carried out by the Company's Management under the supervision of its Board of
Directors.

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\(^{30}\) The Law of Ukraine "On Companies", Article 41. Note that voting shares do not include shares held by
the Company (treasury shares). Furthermore, the Company Charter may restrict the voting rights of
owners of preferred shares. See Article 4 of the Law of Ukraine "On Securities and the Stock Exchange".

\(^{31}\) The Law of Ukraine "On Companies", Article 43.
A. Function and Powers

The Board of Directors is elected by the General Shareholders' Meeting and serves as the Company's highest governing body between meetings of shareholders. It is charged with oversight of the Company's Management, and exercises powers vested in it by the Company Charter or delegated by the General Shareholders' Meeting. It is very important that the Board be independent of Management.

The Board of Directors does not make day-to-day management decisions such as those relating to the hiring and termination of employees, or the signing of routine contracts. Instead, it defends the interests of the Company and its shareholders by approving the Company's strategy, budgets and key agreements. It identifies risk and makes sure it is being managed properly. The Board makes sure that the Company has good internal controls and information management systems which can provide a timely, clear financial picture when one is required. The Board of Directors also sets the compensation for top managers, if such power was delegated to it by the General Shareholders' Meeting, and considers matters raised by shareholders dissatisfied with decisions of the Company's Management. It should also be responsible for overseeing communication with shareholders and approving a communications plan for use with all stakeholders of the Company.

Article 46 of the Law of Ukraine "On Companies" makes a Board of Directors for any company with more than 50 shareholders mandatory. For all companies, Boards of Directors serve to reassure shareholders that good governance of the Company is in place between General Shareholders' Meetings and that managers will not abuse their powers or waste their investment.

A General Shareholders' Meeting may delegate some of its powers to the Board of Directors, which can, in turn, delegate its authority to top managers. The Company Charter must specify powers of the Board of Directors that may not be delegated to the Company's Management and are within the exclusive jurisdiction of the Board of Directors.

Powers of the Board of Directors and the procedure for election of its members, as well as other issues relating to the work of the Board of Directors, must be specified in a Company bylaw relating to the Board of Directors, to be approved by the General Shareholders' Meeting.

A copy of such model bylaw is attached as Appendix #3.

B. Election of Board Members

Before elections are held at the first General Shareholders' Meeting, the Board of Directors consists of persons specified by the State Privatization Program and other normative documents which govern privatization.
The first General Shareholders' Meeting elects a new Board of Directors. In Ukraine, only a shareholder of the Company may be elected to its Board of Directors. Ideally, directors should have the following qualifications:

- the trust of other shareholders;
- the ability to relate, on behalf of the shareholders, to the interests of all parties and make well-reasoned decisions;
- professional experience, education and contacts useful to the Company (such as business experience, knowledge of relevant national issues and trends, or expertise in technologies used by the Company);
- an ability to translate their knowledge and experience into solutions that can be applied to the Company.

In the West, well-known financiers, bankers, lawyers, scientists, executives of other corporations and corporate management experts often serve on the Boards of Directors of companies even if they are not shareholders. They are referred to as "outside" or "unrelated" directors and are considered qualified to serve the best interests of the Company, above all other interests, sometimes more so than shareholders whose interests may occasionally conflict with the best interests of the Company.

Ukrainian law also prevents members of the Board of Directors from serving in the same Company's Management or the Audit Committee. This is another significant departure from western practice, which permits "inside directors" drawn from the Company's top management or representing significant shareholders to serve alongside "outside" directors who generally make up a majority of the Board.

Members of the Board of Directors are also subject to legal restrictions barring elected officials, certain public employees and people with fraud convictions from holding positions in commercial organizations. In addition, the Company Charter may specify additional eligibility requirements.

There is no law barring another company, an investment fund or any other legal entity from holding a seat on the Company's Board of Directors. In this case, a senior officer of the legal entity represents it during Board meetings, or issues a power of attorney to another

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2 The Law of Ukraine "On Companies.", Article 46, Part 5.
3 Pursuant to Part 3 of Article 23 of the Law of Ukraine "On Companies", elected public officials, military personnel and officials of the prosecutor's office, the courts and police, the state security services, arbitration tribunals, the state notary public's office and state regulatory agencies may not serve as company officers. Also barred are people prevented by court order from engaging in activities that are required of some company officers. Thus people with outstanding convictions for fraud, theft or bribery are barred from managerial positions and other jobs that involve financial responsibilities.
BOARD OF DIRECTORS

officer on behalf of the legal entity. The power of attorney may be issued for a single Board meeting or for permanent representation on the Board.

In the West, members serve in their personal capacity and may not have anyone represent them in their absence. Even if they have been nominated to the Board of Directors to represent a company which is a significant shareholder, they must still vote in the best interests of the Company on whose Board they are sitting, rather than in the best interests of the outside company whose share-holdings they represent.

Members of the Board of Directors are elected at the General Shareholders' Meeting, generally based on nominations or self-nomination. The Company Charter should specify whether the head of the Board of Directors is elected at the General Shareholders' Meeting or at the meeting of the Board of Directors from among its members. Any member of the Board of Directors may be re-elected or recalled by the General Shareholders' Meeting.

Terms of office for Board members are not limited in Ukraine by law, nor are they usually in other legal jurisdictions. However, in the West, members of the Board of Directors are usually elected for a term of two to three years and, except for cause, may not be removed until their term has expired. International experience has also shown that it is preferable for Boards of Directors to stagger the terms of their members to allow veteran directors to help newly elected colleagues become familiar with the Company's affairs. In Ukraine, members of the Board of Directors may be re-elected for an unlimited number of terms. In the West, the number of terms is often limited.

Ukrainian law does not specify how many members Boards of Directors should have. As a practical matter, the optimum number depends on the number of shareholders in a joint stock company and the scope of powers delegated to the Board of Directors. It is recommended that companies with more than 1,000 shareholders elect at least seven (7) directors, and companies which have more than 10,000 shareholders — at least nine (9). A company may have a larger Board if there is a need for more representation or expertise on the Board; however, it is generally thought that Boards of more than 12 to 14 people are unwieldy and inefficient. The Board of Directors should have an odd number of members in order to avoid tie votes, although even numbers of Board members will occur due to absences. The size of the Board should be specified in the Company's Charter.

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4 The procedure for nominations and self-nomination is set forth in the bylaw on the Board of Directors (Appendix #3 to this manual). In the West, self-nomination is unusual. Procedures for nominations usually specify that a candidate must be nominated in writing by another person and often by two persons. Persons wishing to stand for election, therefore, must arrange to be nominated by someone else.

5 For example, the first General Shareholders' Meeting elects a nine-member Board of Directors. Three are elected for one-year terms; three for two-year terms and three for three-year terms. All subsequent elections are for three-year terms, ensuring that only a third of the Board will be up for re-election in any given year.
C. Decision-Making by the Board of Directors

1. Board Meetings

The Board of Directors meets as often as necessary, or as specified in the Company Charter or in the bylaws of the Company relating to the Board of Directors. It is recommended that the Board meet at least once every three months.

There are the following types of Board meetings:

- **Regular Board Meetings**
  Regular meetings of the Board of Directors may discuss any activities, policies, or strategies of the Company that fall within the Board's broad jurisdiction. The Chairman of the Board of Directors calls regular Board meetings.

- **Extraordinary Board Meetings**
  Extraordinary Board meetings may also be held when they are needed. Procedures for the holding of an extraordinary Board meeting are specified in the Company Charter or the bylaws relating to the Board of Directors. (See Appendix #3). In international practice, extraordinary meetings may be called at the request of the Chairman or Secretary of the Board of Directors or any two directors.

- **Annual Board Meetings**
  Annual Board meetings must be held no later than three months after the end of a fiscal year, but prior to the Annual General Shareholders' Meeting. Annual meetings of the Board of Directors are held to review the annual balance sheet of the Company, its financial statements and the report of its Audit Committee. At the Annual General Shareholders' Meeting, the Chairman provides the Board of Directors with complete current information in a comprehensive report regarding the Company's business and plans.

- **Electronic Meetings and Resolution by Written Consent**
  International practice permits the Board of Directors to make decisions:
  - by conference call or any other means of communication which permits all members of the Board of Directors to hear each other and record their vote;
International practice provides for the following procedure for the calling of Board meetings:

- once a meeting has been requested, the Secretary of the Board of Directors notifies each director of the time and place of the meeting in writing.

- the notice should include an agenda listing all matters to be considered at the meeting, along with enough supporting documentation to allow Board members to form a reasoned judgment on the issues to be addressed.

The Chairman of the Board of Directors presides over Board meetings. If the Chairman is absent, the meeting is chaired by a Deputy Chairman elected by Board members from their ranks or by any member chosen by the Board for that meeting.

The procedures for holding meetings of the Board of Directors may be incorporated in the Company Charter or, preferably, in the bylaws of the Company relating to the Board of Directors. Normally, the process works as follows:

- a meeting can be held only if a quorum is present, that is, if a minimum number of directors or a proportion of the Board specified in the Company Charter or the bylaws is present. No decisions can be made or valid meeting held without a quorum of members being present. As a rule, the presence of two-thirds (2/3) of the members of the Board of Directors constitutes a quorum unless the Company Charter specifies otherwise.

- at the meeting, the Chairman initiates discussion of each issue listed on the agenda.

- following discussion, the Board of Directors votes on any motions proposed. Unless the Company Charter specifies otherwise, the Board of Directors decides all issues by a simple majority. Each member of the Board of Directors has one vote.

- one director, elected or appointed by the Board as its Secretary, keeps minutes of all meetings. (*Sample minutes of a Board of Directors meeting are attached as Appendix #13*). All minutes must be signed by the Chairman of the Board and the Secretary of the meeting, and are compiled in a log.

Members of the Board of Directors must perform their functions personally. They cannot delegate their powers to another member of the Board of Directors or to a third party.

Decisions made at meetings of the Board of Directors are passed on to Management for implementation.
2. Committees of the Board

A Board of Directors may have standing committees or may, from time to time, create committees to study certain issues of special concern to the Board. For example, a committee might study how a new regulation will affect the Company's business, consider the costs and benefits of a merger or acquisition or investigate allegations of fraud.

In the West, the Board of Directors usually has a Nominating Committee to seek out qualified directors and recommend them for election to the Board of Directors by the General Shareholders' Meeting. (The Nominating Committee may also do a search for a Chief Executive Officer or other senior management officers, like the Chief Financial Officer, or the Board may constitute a separate Search Committee to seek out candidates for such management positions.) The Board of Directors also usually has an Audit Committee, which is similar to, but less structured than, the Ukrainian Audit Committee or Commission. It may also have a Strategic Planning Committee, a Finance or Investment Committee or other committees to study matters in depth and make recommendations for the consideration of the Board as a whole.

The Board of Directors can appoint a committee to study any issue at any of its meetings. Ukrainian law makes no provision for such bodies, but in international practice they are usually advisory and their recommendations are not usually binding unless voted on and endorsed by the full Board of Directors.

D. Duties of Board Members

Members of the Board of Directors:

- must inform themselves generally about the affairs of the Company;
- must perform their duties honestly, in good faith and in the best interests of the Company, first and foremost;
- must promote policies directed toward increasing the Company's profits;
- must remain loyal to the Company, notifying it at once of any personal interest in transactions contemplated by the Company;
- must not usurp Company opportunities for their own interests or otherwise harm the Company;
- must not engage in a business that competes with the Company;
- should not receive direct or indirect compensation for influencing decisions made by the Company's governing bodies.

Duties of a member of the Board of Directors to act effectively on behalf of the Company
and to avoid conflicts of interest have evolved in the West into broad and legally recognized concepts. The duty of care requires a director to discharge his responsibilities responsibly and effectively. The duty of loyalty is a fiduciary duty and forces a director to act always for the benefit of the Company and its shareholders. Consequently, a director may not benefit in any way, directly or indirectly, from his position on the Company's Board of directors, except under specified circumstances which require full disclosure of the Director's personal interests and the consent of the other members of the Board.

In the event that any member of the Board of Directors or other officer has a financial interest in a transaction involving the Company, he must notify the Board of Directors of the conflict promptly and abstain from voting on such transaction. Members of the Board of Directors and other officers are deemed financially interested, inter alia, if they personally:

- are the other party to a contract;
- act as a representative of the other party to a contract;
- hold shares, or are directors or officers of the other party;
- are creditors of the other party;
- have close relatives or business associates who are one of the above.

Typically, for such a transaction to be valid, a majority of the other members of the Board of Directors must approve the transaction upon disclosure of all information regarding the conflict of interest. If the Board of Directors is not notified of all the facts and circumstances of the conflict of interest, the Board of Directors and shareholders have the right to demand the termination of the contract, and to seek damages in court.

**E. Compensation and Indemnification of Board Members**

The Company sets compensation for members of the Board of Directors based on their workload. For example:

- directors can be paid for each meeting attended;
- receive additional stipends for work on any committee set up by the Board of Directors;
- receive additional stipends for serving as the Board's Chairman, Deputy Chairman, or Secretary.

Many companies provide incentives for members of the Board of Directors by linking their basic pay or bonuses to the Company's quarterly, semi-annual or annual results. Large international companies often link directors' pay to the performance of their shares by
paying them with Company shares or share options.⁶ This gives each director a personal stake in increasing the Company's market value, thus encouraging efficient oversight of the Company's affairs.

International practice also allows companies to indemnify members of the Board of Directors for losses incurred in the course of performing their duties as Board members. For example, a director can be reimbursed for court expenses connected with a claim against him in his role as a director, provided he acted honestly and in good faith in the best interests of the Company and in compliance with the Company Charter. Directors are also entitled to be compensated for travel and other legitimate business expenses related to their duties as members of the Board of Directors.

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⁶ Share option – a benefit offered to Company officers or employees giving them an option to buy Company shares at a favorable fixed price or at a stated discount to the market price in order to increase their loyalty to the Company.
MANAGEMENT VI
A. Function and Powers

Senior Management of the Company is the Company's executive authority. It controls the Company's day-to-day operations within guidelines set by the General Shareholders' Meeting and with the oversight of the Company's Board of Directors.

Management must adhere to Ukrainian laws, the Company Charter, Company bylaws, including those governing the activities of Management,¹ and other internal Company documents.

Management is responsible for carrying out the decisions of the General Shareholders' Meeting and the Board of Directors. Management decides all business matters except those falling within the prerogative of the General Shareholders' Meeting and the Board of Directors of the Company.

The General Shareholders' Meeting may delegate some of its powers to Management.² See Appendix #4 for details.

Management plays an important role in organizing the General Shareholders' Meetings by preparing the agenda and, often, handling the logistics of the meeting.

B. Selecting Management Personnel

1. Selection Procedure

Under Ukrainian law, members of the Management team are elected by the General Shareholders' Meeting, although nothing prohibits shareholders or the Company Charter from copying international practice by delegating those decisions to the Board of Directors.

The head of the management team is appointed or elected in accordance with the Company's Charter.³ The General Shareholders' Meeting (or the Board of Directors) may at any time replace a member of the management team for incompetence, abuse of office, disclosure of confidential information to third parties, or other action (or inaction) contrary to the best interests of the Company or its shareholders.

The director of a state-owned enterprise undergoing privatization is the first head of its management team. The head is appointed by the responsible state agency to serve until an election for the office can be held at the first General Shareholders' Meeting.

¹ Bylaws relating to Management are approved by the General Shareholders' Meeting or by the Board of Directors provided that this issue falls under its jurisdiction and are attached as Appendix #4.
SECTION VI

2. Composition and Selection Criteria

In addition to the head of the team, who is the Chief Executive Officer ("the CEO"), Management may include the Chief Financial Officer, the Chief Operating Officer ("the COO") (the equivalent of the Production Director), Chief Legal Counsel, chief executives of subsidiaries, affiliates and representative offices, the Secretary of the Company and other professionals whose knowledge and experience are of great importance to the Company. The above roster is only a guideline and can be changed by the General Shareholders' Meeting. In practice, other key managers such as the personnel director or the marketing director can be elected to the management team. One member of Management, often the COO, is designated as a Deputy CEO to assist the Chief Executive Officer and fill in during his or her absences.

Members of Management may own shares of the Company but are not required to do so. (Procedures for nominating candidates for the management team are described in model bylaws relating to Management in Appendix #4). They should, however, meet the following criteria:

- have the necessary education, knowledge and experience to hold the office to which they are elected;

- possess personal characteristics enabling them to actively interact and co-operate with other members of the management team;

- have a good command of the industry sector in which the Company operates and the special expertise required to perform their duties.

The CEO and other members of Management are considered to be Company officers, and as such are subject to restrictions limiting the eligibility for such positions of elected officials, certain public employees and people with fraud convictions.

3. Job Descriptions of Management Members

Chief Executive Officer

The CEO is fully responsible for managing the day-to-day affairs of the Company. The CEO performs the following functions:

- conducts strategic planning and manages the Company's operations;

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5 Pursuant to Part 3, Article 23 of the Law of Ukraine "On Companies", elected public officials, military personnel and officials of the prosecutor's office, the courts and police, the state security services, arbitration tribunals, the state notary public's office and state regulatory agencies may not serve as company officers. Also barred are people prevented by court order from engaging in activities that are required of some company officers. Thus people with outstanding convictions for theft, fraud or bribery are barred from managerial positions and other jobs that involve financial responsibilities.
MANAGEMENT

• has the right to utilize the Company's property and funds under authority vested in him by the Company Charter, Company bylaws, decisions of the General Shareholders' Meeting and the Board of Directors;

• represents the Company's interests in interaction with outsiders;

• hires and dismisses employees, except officers elected by the General Shareholders' Meeting or by the Board of Directors;

• organizes the implementation of decisions of the General Shareholders' Meeting and the Board of Directors and reports back to these bodies;

• opens bank accounts necessary to transact the Company's business;

• delegates duties to deputies and determines the scope of their authority;

• acts on behalf of the Company without a power of attorney, enters into agreements and contracts, and performs other legal actions within the scope of his or her powers; and

• issues orders and directions within the authority of the CEO.

As a result, the CEO has wide-ranging powers. The Company's shareholders may restrict these by amending the Company Charter or bylaws relating to Management, or by adopting an appropriate resolution at the General Shareholders' Meeting. For example, the CEO can be required to secure the consent of another Company officer or of the Board of Directors for certain decisions such as those involving large expenditures of money. In the West, Company drafts or checks usually require the signature of two officers together.

Chief Operating Officer/Deputy CEO

The Chief Operating Officer ("the COO") often acts as the Deputy CEO and assists the CEO and replaces him during the CEO's absences to fulfill the Company's obligations to its customers, suppliers, employees and shareholders. The COO may prepare monthly, quarterly, and annual reports on the Company's operations and performance. He or she may also be in charge of training programs for technical personnel. However, any senior officer who has the requisite experience and knowledge, such as the Chief Financial Officer or the Chief Legal Counsel, can be appointed Deputy to the CEO.

Chief Financial Officer (Economic Issues Director)

The Chief Financial Officer makes sure that the Company's cash flow is sufficient to meet its obligations and that money is spent wisely to ultimately increase the Company's market value. He or she is also involved in strategic planning of the Company's activities with other members of the management team, as well as making important financial and investment decisions. He also manages the coordination and control of various departments such as
the accounting, finance, and investment departments, to assure a wise and balanced distribution of financial resources.

**Chief Legal Counsel (also known as the General Counsel)**

As head of the Legal Department, the Chief Legal Counsel verifies that activities of the Company adhere to all applicable laws and regulations and advises Management and the Board of Directors. The Chief Legal Counsel also works with the other members of the management team on strategic planning of the Company's activities. The Chief Legal Counsel prepares internal corporate documents specifying policies and directives to be approved by the General Shareholders' Meeting or the Board of Directors and oversees compliance with them. He or she assures the accuracy and legality of all documents issued by the Company, the General Shareholders’ Meeting, the Board of Directors and Management for distribution to shareholders, employees, government agencies and the general public. The Chief Legal Counsel also often negotiates agreements on the Company's behalf and defends the Company's interests in regular and arbitration courts, before state agencies and in other forums for settling disputes.

**Marketing Director**

The Marketing Director is in charge of boosting demand for the Company's products and services, thus increasing Company sales and revenues. The Marketing Director charts the Company's pricing strategy together with the Chief Financial Officer and works with the Chief Operations Officer to find the most favorable distribution channels. He or she is responsible for marketing research, advertising campaigns and other promotional work, whether handled internally or contracted out to specialist agencies. In some cases, the Marketing Director has overall charge of the image that the Company presents to outsiders, thereby incorporating public relations within his or her area of responsibility.

**Chief Executive Officers of Subsidiaries, Affiliates and Representative Offices**

Chief Executive Officers of subsidiaries, affiliates and representative offices may also be elected to Management by the General Shareholders’ Meeting. Within their operational domain, these managers exercise duties similar to those exercised by the CEO as a whole.

**Secretary of Management**

The Secretary of Management, who is a member of the management team, prepares, signs and logs the minutes of Management meetings and oversees the delivery of legally required notices to members of Management, shareholders, third parties, state agencies and others. The Secretary assists the CEO in preparing and holding meetings of Management. The Secretary also supervises the maintenance, preparation and submission of reports and other documents to state agencies in accordance with applicable legislation.

In western companies, members of the management team have the same duties of "loyalty" and "care" as the members of the Board of Directors.
4. Management Contracts (Labor Agreements)

The Company must conclude written contracts (labor agreements) with members of its management team. Such labor contracts should include the following terms:

- description of the manager's rights and duties;
- remuneration and working hours;
- sanctions to be applied for failing to carry out one's responsibilities;
- benefits and other privileges (e.g., discounts on purchases of the Company's shares, vacations, a healthcare subsidy, partial compensation of housing costs);
- provisions on indemnification against losses arising from the fulfilment of professional duties;
- the term (duration) of the contract;
- the manager's commitment not to disclose confidential or proprietary information during the term of the labor contract and for a certain period thereafter;
- if the manager has expertise that is essential to the competitive position of the Company, the manager's commitment not to enter into a competitive business during the term of the labor contract and for several months or years following its termination;
- a commitment to defend the interests of the Company and its shareholders. For example, a member of the management team should be required to notify Management or the Board of Directors about a personal stake in any transaction involving the Company or any other conflict of interest;
- grounds for early termination of the labor contract.

5. Management Incentives

The Company can improve the motivation of its management team by providing financial incentives tied to the Company's performance for its top managers. Although these can take the form of cash bonuses, many companies partially compensate their officers with Company shares and share options. This encourages managers to increase the value of the Company's securities by improving the Company's profitability. Such incentives benefit
shareholders and members of the management team alike, and are widely used in international practice.

To avoid abuses, the Company should develop and submit to the General Shareholders' Meeting for approval a detailed procedure for negotiating and calculating compensation, incentives and benefits for its senior managers. In the West, such matters are often handled by Compensation Committees who make recommendations for the approval of the Board of Directors, although shareholders are often provided with details of compensation for top managers, particularly in public companies.

C. Management Work Procedures

1. Autonomy of Members of Management

Each member of the management team has a certain degree of autonomy over his area of expertise or operations and in the management of his employees. He or she is responsible for supervising their work and ensuring that it meets Company standards.

2. Interaction for Cohesive Company Strategy

Given the management team's diverse responsibilities, each of its members can have only a partial view of developments within the Company and outside factors that can affect its profitability. To be effective, members of Management must meet frequently to share their perspectives.

3. Preparing and Holding Management Meetings

Each Company incorporates its own procedures for preparing and holding Management meetings into its Charter or Company bylaws relating to Management. Management holds both regular and extraordinary meetings. It is advisable to hold regular meetings at least once per month. Extraordinary meetings are called when required.

During meetings, each member of Management informs the others of the latest accomplishments and problems within his area of responsibility. Whenever possible, members of Management help solve each other's problems either at the meeting itself or through follow-up action. During meetings, managers also discuss Company-wide issues such as research developments, the Company's financial standing, changes in relevant laws and regulations, expansion or down-sizing prospects and the emergence of new competitors.

D. Legal Liability of Management

Article 265 of Ukraine's Labor Code holds Company officers responsible for labor law violations.
Furthermore, Company officers may bear special liability for violation of labor legislation and may be subject to administrative penalties for violating labor and labor protection laws.8

Under Article 11 of the Law of Ukraine "On the State Taxation Service", Company officers9 bear personal responsibility for tax law violations such as:

- underpaying taxes or other payments;
- violating the procedures and terms of providing information, balance sheets and tax statements;
- other types of violations.

In accordance with Article 24 of the Law of Ukraine "On the Anti-Monopoly Committee", Company officers are responsible for violations of anti-monopoly legislation. Thus, they could be punished:

- for disseminating false or inaccurate information intended to damage the business reputation of competitors;10
- for abusing a monopoly position in the market;11
- for other breaches of the law.

Under Article 13 of the Law of Ukraine "On State Regulation of Securities and the Stock Market", Company officers bear administrative responsibility for unlicensed securities transactions; for the deliberate submission of false or incorrect information to the Securities and Stock Market State Commission; and for other types of securities violations.

Under Article 16 of the Cabinet of Ministers Decree "On the System for Currency Control and Regulation", the Company's officers bear administrative and criminal responsibility for violating foreign exchange laws.

In addition, the Criminal Code provides for criminal liability of Company officers guilty of malfeasance, including fraud, theft, bribery, embezzlement and other crimes for which they can face criminal prosecution.12

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8 The Ukrainian Code of Administrative Law Violations, Articles 41-41(3).
9 In this context, officers are the Company's CEO and chief accountant, whose responsibility is also determined by the Regulation on the Organization of Accounting and Reporting in Ukraine, approved by Resolution of the Cabinet of Ministers of Ukraine, dated April 3, 1993, #250.
10 Ukrainian Code of Administrative Law Violations, Article 164-3.
11 Ukrainian Code of Administrative Law Violations, Article 166-1 and 166-2.
12 Ukrainian Criminal Code, Section 6, Articles 164-172. Article 164 of the Ukrainian Criminal Code defines an officer as follows: "Officers are persons who permanently or temporarily act as representatives of an authority, as well as persons holding offices, permanently or temporarily, related to the organizational, managerial, administrative and economic duties in enterprises, establishments or organizations, regardless of their ownership form, or persons performing such duties under special authorization."
Although far from comprehensive, this section illustrates the high level of responsibility and integrity demanded of Ukrainian managers.
AUDITS
AND
THE AUDIT
COMMITTEE
A. The Audit Committee

The shareholders of every Company are required by law to select an Audit Committee that reports to them on the accuracy of the Company's accounts. The Audit Committee controls financial and economic activities of Company Management through regular and extraordinary audits which deliver a true picture of the Company's financial health and acts as a watchdog to prevent accounting errors and abuses by the Company's Management.

1. Powers of the Audit Committee

The Audit Committee usually performs the following functions:

- recommends an outside auditing firm to the shareholders to check the Company's accounts; (in western practice, shareholders select the auditors at the annual shareholders' meeting on terms proposed by the Board of Directors or Management);

- receives and reviews the auditors' report, submits its own annual report to the Annual General Shareholders' Meeting and provides the Annual General Shareholders' Meeting with recommendations based on these reports;

- works with the Company's Management to ensure that the Company's accounting and audit procedures are honest and accurate;

- convenes an Extraordinary General Shareholders' Meeting when it discovers threats to the Company's interests or abuses by Company officers.

In order to perform these tasks effectively, members of the Audit Committee have the right:

- to demand all documents needed to carry out audits of the Company's accounts and require Company officers to provide information on issues within the Audit Committee's purview;

- to participate in Management meetings in an advisory capacity.

The legal status of the Audit Committee – its rights, obligations and membership requirements – are described in greater detail in the Company Charter and/or in the bylaw relating to the Audit Committee (See Appendix #5).

1 The Law of Ukraine "On Companies", Article 49.
2 The Law of Ukraine "On Companies", Article 49.
2. **Audit Committee Elections and Membership Requirements**

Members of the Audit Committee are elected at the General Shareholders' Meeting by a simple majority vote of the shareholders represented at the meeting.3

The following restrictions apply:

- a member of the Audit Committee must be a shareholder of the Company;4
- the Audit Committee may not include members of Management, the Board of Directors or other Company officers;5
- the Audit Committee may not be chaired by a person who is barred by law or court decision from serving as a company officer.6

The number of Audit Committee members and the duration of their terms in office are set in the Company Charter. Audit Committee members are elected on the extent of their knowledge, experience and familiarity with the Company's activities. In western practice, the terms of members of Audit Committees are staggered to ensure continuity and consistency in the work of the Audit Committee.

*Staggered terms are described in greater detail in Section V.*

3. **Work of the Audit Committee**

The Audit Committee's activities are governed by the Company Charter and bylaws relating to the Audit Committee. The Audit Committee is expected to work more informally than the Board of Directors or the General Shareholders' Meeting. Internal Company documents governing the Committee's activities should allow for flexibility in the Committee's work.

The Audit Committee performs regular and extraordinary audits of the Company's accounts and financial activities of Management. Regular audits are included in the Company's annual report and financial statement. Under Ukrainian law, the General Shareholders' Meeting may not approve the Company's financial statement if it does not include the Audit Committee's conclusions.7

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3 The Law of Ukraine "On Companies", Articles 41 and 42.
4 The Law of Ukraine "On Companies", Article 49.
5 The Law of Ukraine "On Companies", Article 49.
6 Pursuant to Article 23 of the Law of Ukraine "On Companies", elected public officials, military personnel and officials of the prosecutor's office, the courts and police, the state security services, arbitration tribunals, the state notary public's office and state regulatory agencies may not serve as company officers. Also barred are people prevented by court order from engaging in activities that are required of some company officers. Thus people with outstanding convictions for fraud are barred from managerial positions and other jobs that involve financial responsibilities.
7 The Law of Ukraine "On Companies", Article 49.
AUDITS AND THE AUDIT COMMITTEE

The Audit Committee carries out extraordinary audits:

- at the demand of the General Shareholders' Meeting;
- at the demand of the Board of Directors;
- on its own initiative;
- at the demand of shareholders who collectively hold more than 10% of the votes.

B. External Audits

Beyond the Audit Committee, companies can also be audited by outside audit firms. An audit is a thorough review of the company's accounts and other documentation, which is performed to ensure their accuracy, completeness and conformity with applicable legislation and established standards.

In a market economy, audit is an important element of financial control. Audits of private enterprises are necessary to verify the accuracy of financial reports, ensure independent control of enterprise operations, and protect the interests of shareholders. Audits may be carried out at the company's own initiative (the voluntary audit) and in instances specified by legislation (the mandatory audit). Ukrainian law mandates audits of joint stock companies in the following circumstances:

- to confirm the annual reports and financial statements of all commercial entities. Companies with an annual turnover of less than a total of 250 non-taxable minimum incomes must be audited at least once every three years; 
- if a company acts as a founder of a commercial bank, an enterprise with foreign investment, a joint stock company or a financial intermediary;
- if a company issues securities;

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1 The Law of Ukraine "On Companies", Article 49.
4 "Non-taxable minimum income" - is the minimum income of Ukrainian citizens exempt from income tax as established by the Verkhovna Rada or presidential Decree. At the date of printing, non-taxable minimum income is Hr. 17.
5 Pursuant to the Resolution of the Verkhovna Rada "On the Introduction of Changes to Clause 7 of the Resolution of the Verkhovna Rada of Ukraine Regarding the Procedures for Introducing the Law of Ukraine On Auditing Activities" dated September 24, 1997, #544/97-VR, the mandatory audit of annual financial statements and reports for businesses (except banks, investment funds and investment companies, other non-bank financial institutions which accept deposits or sell securities other than their own stock issues, exchanges, insurance companies, credit unions and private pension funds) shall be carried out in accordance with the procedure specified by the Law of Ukraine "On Amendments and Alterations to the Law of Ukraine On Auditing Activities."
• to initiate bankruptcy proceedings;

• to confirm the liquidation balance sheet (except for Companies with annual business turnover of over 250 non-taxable minimum incomes).\(^{13}\)

Independent external audits give the Company's shareholders, managers and employees a second professional opinion about the Company's financial position. They boost the Company's credibility and prospects for attracting new investment by increasing transparency and ensuring greater accountability.

In addition, independent audits provide the Company with objective arms length advice on issues of accounting, taxation, and legislative compliance, as well as an analysis of the Company's finances and operations.

\(^{13}\) The Law of Ukraine "On Companies", Article 20.
SUBSIDIARIES,
AFFILIATES
AND REPRESENTATIVE
OFFICES

VIII
Companies operating in several regions may wish to establish affiliates, representative offices and subsidiaries.

A. Affiliates and Representative Offices

An affiliate is a subdivision of a Company, carrying out some or all of its economic functions, including those of a representative office.

A representative office is a subdivision located outside the Company's primary location(s) to represent and protect the Company's interests. Unlike an affiliate, a representative office may not carry out "economic (i.e. commercial) activities" per se, and performs only legal functions (e.g. enters into agreements and pays for goods on behalf of the Company).

New affiliates and representative offices are authorized by a three-quarters (3/4) majority of the votes cast at the General Shareholders' Meeting.¹

Affiliates and representative offices are not separate legal entities. They act on behalf of the founding Company based on the bylaws adopted by that Company. Affiliates and representative offices are not subject to state registration. Their activities are legitimate once the Company lists them on its registration card.²

An affiliate's and representative office's top executives are appointed by the Company's Management and act on the basis of a power of attorney issued by the Company.³ The power of attorney determines the scope of their authority to represent the Company.

Affiliates and representative offices must keep separate accounts. The balance sheet of an affiliate or representative office is incorporated into the parent Company's balance sheet.

The Company retains responsibility for the activities of its representative offices and affiliates.

B. Subsidiaries

A Company may establish domestic and foreign subsidiaries⁴ by a three-quarters (3/4) majority of the votes cast at the General Shareholders' Meeting.⁵

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¹ The Law of Ukraine "On Companies", Article 42.
⁴ The Law of Ukraine "On Companies", Article 9.
⁵ The Law of Ukraine "On Companies", Article 42.
Unlike affiliates and representative offices, subsidiaries are separate legal entities governed by their own Charter, as approved by the parent Company. A subsidiary is registered at the place of its location according to the procedures provided by applicable law.\(^6\)

Ukrainian legislation, including the Ukrainian Civil Code and the Law of Ukraine "On Enterprises in Ukraine", does not define the term "subsidiary" and does not spell out the process for establishing one. Therefore, the rules for setting up, structuring and liquidating subsidiaries, as well as those for controlling their activities, are those applied to all companies by the laws of Ukraine "On Property", "On Entrepreneurship", and "On Enterprises in Ukraine".\(^7\)

In international practice, a Company is treated as a subsidiary if a parent Company controls its decisions through its dominant stake in the subsidiary Company.

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FINANCES
AND FINANCIAL
MANAGEMENT
A. Definition of Finances and Financial Management

The activities of any enterprise, including a joint stock company, require a steady cash flow. Initially, money is deposited in the account of an enterprise, forming its financial resources, and then it is spent to achieve specified goals designed to generate a profit for the shareholders of the Company.

The formation of financial resources and their use, including the relations arising in that connection between the Company, on one hand, and shareholders, business partners, creditors, the state, workers, etc., on the other hand, are called the finances of a joint stock company.

Analysis, planning and forecasting, as well as controlling the formation and use of the financial resources of the Company is called financial management.

The Company needs financial management in order to make informed decisions on how best to attract and utilize the Company's finances.

The role of the Company's Financial Director (or in western parlance, the Chief Financial Officer ("the CFO")) in connection with financial management is as follows:

- to control and analyze the flow of financial resources (utilizing what in foreign finance practice is called a "statement of cash flow")
- to carry out financial forecasting and planning on the basis of the current and strategic policy of the Company and in close cooperation with all of its departments (production, marketing, personnel and other departments);
- to determine the optimal level of production and sales, as well as identify the best sources for their financing;
- to conduct budgeting work, as well as productivity tracking and measurement;
- to manage the Company's policy on use of credit;
- to make financial and investment decisions (determine the financial policy of the Company) based on past experience and current market conditions.

Financial management of the Company is carried out by officers and employees of the

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1 The statement of cash flow is a financial document reflecting the amount (increase or decrease) of cash earnings and expenditures as a result of the Company's business activities.
2 Market conditions are the numerous political, social and economic indices that have a collective impact on the level, dynamics, and prices of goods (including securities) and services in the open market.
financial planning and accounting departments who are supervised by Company Management. When carrying out such activities, officers and employees must act on the basis of the Charter of the Company and other internal documents, as well as in accordance with legislation regarding the following issues:

- organization of the structure and management of the Company's activities;
- accounting and finances;
- taxation;
- securities and the stock market;
- international accounting standards;
- other types of activities related to finances.

B. Determining the Financial Condition of the Company

The status of a Company's financial resources is a critical indicator of its overall performance.

1. The Structure and Flow of the Company's Financial Resources

The Company's successful operation is impossible without sufficient finances and their rational use. Financial resources are obtained either from internal or borrowed funds. **Internal funds** (equity) are owned by the Company (i.e., the Company's shareholders) without time limits. **Borrowed funds** (debt) are held by the Company for a specified time period and generally on a fee (interest payment) basis. Therefore, it is important to take into account the correlation between cash earnings and expenditures on the one hand and overall performance of the Company on the other.

Delays in receiving income interfere with the Company's ability to pay employees, the state, creditors and shareholders, and new investments may be postponed or canceled. Not only the amounts and the speed of cash flow are important, but also the structure of the financial resources and their use.

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5 The Law of Ukraine "On Securities and the Stock Exchange".
2. Analysis of a Company's Finances

An open joint stock company must regularly (at least once a year) produce reports on its activities for the General Shareholders' Meeting and the regulatory authorities. Of all the reports, the financial report is the most important, including detailed explanations. In order to fully analyze financial statements and understand the financial condition of the Company, it is preferable to have financial expertise and experience. Shareholders, potential investors, creditors and others interpret and evaluate the Company's activities by examining key financial indicators:

- the amount and dynamics of profit (to what extent profit has increased or decreased in comparison with past years);
- liquidity (solvency), i.e. the ability of the Company to pay off its liabilities in a timely way and in full;
- stability of cash flow, i.e. the amount of money coming into the Company's account to pay off its liabilities;
- debt to equity ratio, i.e. the proportion of internal and borrowed funds to the total value of the Company's financial resources;
- the amount of dividends paid on common shares.

C. Formation of the Financial Resources of the Company

In accordance with their origin or source, financial resources can be divided into internal funds ("equity" in international parlance) and borrowed funds ("debt").

1. Internal Funds

Internal funds, as described in international accounting systems, include share capital (in Ukraine the Charter fund) and undistributed profits ("retained earnings").

*The Charter fund (Charter capital)* of the Company is created by issuing shares. The value of the Charter fund is equal to the aggregate sum of the nominal value of all issued and outstanding shares. In Ukraine, the value of the Charter fund of a joint stock company may not be less than 1,250 minimum monthly salaries. At the time of publication of this Manual one minimum monthly salary equals Hr.74 (approximately US$19).

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7 The Charter fund of joint stock companies created during privatization is formed on the basis of valuation of the state enterprise's property by issuing shares for the total value of its assets.
8 This refers to the minimum salary defined by law at the moment of the Company's creation (Law of Ukraine "On Companies", Article 24)
A resolution on the increase of the Company’s Charter fund is passed by the General Shareholders’ Meeting. Company Management may pass a resolution to increase the Charter fund by no more than one-third (1/3) of its total amount, provided that this power of Management is set out in the Company Charter.9

The Company may increase the amount of the Charter fund by:10

- issuing new shares;11
- converting the Company’s bonds into shares; or
- increasing the nominal value of the shares.

A resolution to decrease the Company’s Charter fund is passed pursuant to the same procedure as a resolution to increase it. However, one should bear in mind that if the Company’s creditors do not consent to such a resolution, the Charter fund may not be decreased.12

There are several ways to decrease the Charter fund,13 including:

- a decrease of number of shares by purchasing and then cancelling them,14 or
- a decrease in the nominal value of shares.

In accordance with international accounting standards, the undistributed profit of the Company equals the profit after tax less the contribution to the reserve fund (created in accordance with Ukrainian legislation and set out in the Charter of the Company) and less dividends paid.15

Generally speaking, a Company’s profits can be increased several ways:

- an increase in revenues with no or lesser increase in expenses;
- keeping revenues constant while decreasing expenses.

It is important to keep these simple rules in mind while making prospective plans for future

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10 The Law of Ukraine "On Companies", Article 38.
11 The issuance of shares to cover the Company’s losses is expressly prohibited (Law of Ukraine "On Companies", Article 34).
14 Upon the Company’s decision, any shares which shareholders do not submit for cancellation will be deemed invalid and ineffective, but not earlier than 6 months after all shareholders have been informed of the cancellation. The Company reimburses all shareholders for any damages they incurred as a result of the decrease in the Charter fund (Law of Ukraine "On Companies", Article 39.)
profitability. In the event that the Company is profitable, as a general rule, the value of its securities may rise in the secondary stock market. If this occurs, a shareholder or the Company may be able to sell its shares in the Company at a price greater than their nominal value. The proceeds obtained as a result of a sale by the Company of its shares under such conditions, will increase the quantity of the Company's internal funds.

2. Borrowed Funds

Borrowed funds include:

- bank and other loans;
- amounts owed for goods and services;
- unpaid but accrued salaries, taxes, and interest on bonds;
- funds received from the issue of bonds, etc.

3. Which to Choose: the Issuance of Shares or Bonds?

The Financial Director's task is to obtain an optimal proportion between internal and borrowed funds in order to increase the amount of earnings per share.

In international practice, new companies are inclined to raise capital through the sale of shares and not through debt. There are several reasons:

- the new company has no assets against which it can secure the lender's funds;
- the new company does not have a history of operations which show that the company will have sufficient cash flow to service the debt;
- investors who purchase equity are generally less risk-averse than lenders, and as a result, are more willing to bet on the long-term prospects of a start-up company.

Of course, not all new companies raise capital solely by issuing shares, and once a certain amount of share capital is committed by investors, a financial director may find it easier to use the sources of debt capital and receive funds at a reasonable rate of interest.

The advantage of issuing shares to attract capital lies in the fact that the Company need not return the shareholders their funds (except in the event of bankruptcy or liquidation, and then, only to the extent of the value of each shareholder's shares). The Company is also not obliged to regularly distribute profit and declare payment of dividends.

Companies that have a good credit rating and sufficient working capital may attract further capital by issuing bonds. In general, the issuance of bonds has several factors affecting its appeal to issuers and investors:
• while shareholders are the owners of the Company, bond holders are only its creditors, and therefore, may not directly participate in the decision-making process of the Company. Further, to avoid "fragmenting" the Company's property into smaller portions by issuing new shares (thereby "diluting" the shareholding interest of each shareholder), the Company's shareholders would usually prefer the issuance of bonds.

• in accordance with international accounting standards, expenses incurred as a result of paying interest on bonds are generally deducted from taxable profit.¹⁶

D. Using the Financial Resources of the Company

The Company's financial resources may be used for the acquisition and construction of buildings; the purchase of equipment, state securities and securities of other companies; raw materials and production materials; salaries, training and expansion of work force; the purchase or lease of land; and the purchase of other capital assets for the Company.

In order to increase profits, financial directors may recommend investing capital in investment projects such as extension of operating facilities, construction of a new shop, implementation and studying new technology or manufacturing of new products. Regarding any actual project, it is necessary to calculate the financial resources and their use during the whole period of construction or implementation. This is the most important task of the Company's financial management. In international practice, it is called "capital budgeting."¹⁷

In order to obtain profits, a part of the Company's finances may be invested in the securities of other enterprises or in state bonds¹⁸ or other financial instruments. However, it is necessary to emphasize that such investment by the Company carries the regular risks that all investors face in investing in the securities market. According to international practice, state bonds are the most reliable and liquid securities.

When buying securities of other enterprises, the Company's financial directors must carefully study current market conditions, as well as information on the enterprises and securities they plan to acquire.

¹⁶ In Ukraine only non-profit organizations and enterprises where 50% and more of the Charter fund is owned by non-residents are allowed to deduct from taxable profit expenses incurred as a result of paying interest on bonds and other credits. (The Law of Ukraine "On Taxation of Profit of Enterprises" dated May 22, 1997, #283/97-VR).

¹⁷ Broadly speaking, "capital" means all money and other property of a Company used in transacting its business activities. A budget is a document containing information on projected income and expenditures. Therefore, "capital budgeting" is the calculation and analysis of cash flow during the formation and use of funds for a specific project.

¹⁸ It is necessary to emphasize that state bonds are usually the most reliable and liquid securities, although they also generally have a lower yield than highly valued corporate securities.
E. Profit and its Distribution

If the Company has earned a profit, the Financial Director must make proposals regarding its rational use and submit them to Management.

The main principles for distribution of the Company's net profit should be determined in the Company's Charter. Actual profit distribution is made in accordance with the current and strategic policy set out by the Board of Directors and approved by the General Shareholders' Meeting. Determining the optimal profit distribution is the task of the Financial Director. Generally, one portion of the profit is used to pay dividends, and another is used to extend and renew production, invest in securities, acquire real estate, create and replenish the Company’s funds for social programs, and to pay bonuses to the Company's employees.

In Ukraine, the Company must abide by certain legislative provisions governing profit distribution. It must create a reserve (insurance) fund in an amount set out in its incorporating (founding) documents, but equivalent to no less than 25% of the Charter capital, and also other funds provided for in Ukrainian legislation or in the entity's founding documents. The amount of the annual allocation to the reserve (insurance) fund shall be set out in the founding documents but cannot be less than 5% of the amount of net profit.\(^{19}\)

Shareholders (founders and participants) have the right to participate in the distribution of profits and to obtain their respective share of profits by way of dividends.\(^{20}\)

There is no legal requirement in Ukraine for a Company to annually declare the payment of dividends, nor is there any limitation on the amount of a dividend a Company can pay based on year-end results. In the absence of a profit, the dividends on preferred shares (if any) shall be paid at the expense of the reserve fund or other Company funds created for such purposes.

Dividends are declared on shares issued and outstanding (i.e. held by shareholders) except those which are purchased by the Company (i.e. shares held in treasury). The shares held in the treasury must be sold by the Company or canceled within a period of not more than one year from the date of purchase by the Company. During the said period, the distribution of profits as well as voting and assembling a quorum at the General Shareholders' Meeting shall be carried out without taking into account the Company shares purchased by the joint stock company for its own account.\(^{21}\)

When paying dividends, the following must be taken into account:

- the date on which the Company declares the payment of dividends;

\(^{19}\) The Law of Ukraine "On Companies", Article 14.
\(^{21}\) The Law of Ukraine "On Companies", Article 10.
SECTION IX

- the latest date of the purchase of shares on which the dividends are declared;

- the date of making a dividend list: the date as of which the registrar (or the Company) compiles the list of shareholders who have the right to receive dividends; and

- the date that dividends will be paid (the date on which shareholders may receive their respective dividends).

Shareholders have the right to receive dividends regardless of how many days they hold their shares, provided the shares have been paid for in full.

In Ukraine, only persons and entities who are shareholders of the Company as of the starting date of a dividend payment enjoy the right to receive dividends.\(^\text{22}\)

The commission charged by the bank for the payment of dividends is included in the gross expenses of the entity paying the dividends. If the dividends are paid to a non-resident, they are subject to the withholding of a special tax (that may be relieved by the relevant double taxation treaty where the amount of this withholding tax is deducted from the taxable profit of such non-resident). Therefore, an entity paying dividends shall not pay this tax from its funds.

\(^{22}\) The Law of Ukraine "On Companies", Article 10.
The Company is required by law to maintain certain legal documents, accounting records, copies of contracts and other records. These documents can be divided into the following categories: (i) corporate, (ii) financial, (iii) personnel, (iv) legal, (v) other documents.

A. Corporate Records

Corporate records include all documents required to prove that the Company was registered as a joint stock company and has, since registration, conducted its business in accordance with its Charter and applicable laws. Accurate corporate records allow the Company to present an accurate picture of its activities to its own governing bodies, government agencies, shareholders, potential investors and the general public. A consolidated and systematized archive of Company documents will also aid the work of the Company's managers. Responsibility for keeping accurate corporate records typically rests with the Company Secretary or its Chief Legal Counsel. The corporate books should include the following documents, inter alia:

- the Company's state registration certificate;
- the duly registered constituent documents (Charter and Articles of Association) and any amendments and alterations thereto;
- originals or copies of all licenses, patents and permits issued to the Company by national and local government agencies;
- documents (receipts, notices) confirming timely personal notification of each shareholder regarding each Shareholders' Meeting, as well as waivers of the right to participate in the meeting, if any;
- all powers of attorney issued by shareholders and notices by shareholders regarding cancellation of powers of attorney;
- the minutes of all of the Company's Annual and Extraordinary Shareholders' Meetings;
- documents (receipts, notices) confirming timely personal notification of each member of the Board of Directors regarding each meeting of the Board of Directors, as well as waivers of the right to participate in the meeting, if any;
- the minutes of all meetings of the Board of Directors or documents confirming decisions adopted by the Board of Directors by poll, telephone, etc.;
- internal Company bylaws (Management bylaws; Board of Directors bylaws; bylaws regulating the distribution of Company profits, etc.);
SECTION X

- policies and procedures approved by Company Management;

- the minutes of all meetings of Management and the Audit Committee;

- a list of all Company officers, including all officers and employees authorized to represent the Company; and

- the Company's shareholders' register.¹

B. Financial Records

Financial records include all documents needed to prepare reports to the tax authorities, and to monitor the Company's financial performance. The Chief Financial Officer is responsible for maintaining such records with the assistance of the Company's chief accountant and under the supervision of the Audit Committee. Independent auditors examine such documents in the course of preparing regular reports to the Audit Committee and the General Shareholders' Meeting. All documents must be kept in compliance with the rules and norms established by Ukrainian law. If the Company intends to engage in international operations or intends to offer its shares to foreign investors, financial documents should also comply with International Accounting Standards (IAS).² Independent auditors can help the Company make sure that its records comply with all the necessary standards. Financial records include:

- records of bank accounts;

- records of accounts payable (including loans received);

- records of accounts receivable (including loans made);

- monthly, quarterly and annual reports, profit and loss statements, income and cash flow statements;

- status reports regarding all current contracts, invoices from progress payment billings;

- records of all fixed assets;

- payroll records;

¹ See the Regulation on the Procedure for Keeping a Register of Holders of Registered Securities, approved by the decision of the Securities and Stock Market State Commission dated May 26, 1998, #60.

² International Accounting Standards are drafted by the International Accounting Standards Committee, an independent private-sector body, to reflect prevailing international practices. One key difference from Ukrainian accounting rules is the requirement to have, in addition to the balance sheet, a statement of profit and loss, as well as a cash flow statement.
DOCUMENTATION

- copies of all business plans approved by the General Shareholders' Meeting together with any financial projections; and

- any internal investigations records and reports.

C. Personnel Records

Personnel records are kept either by the Personnel Department or by the staff of the Company's Chief Legal Counsel. They include the following:

- service records (labor books) of the Company's employees;

- individual records listing each employee's full name, address, date of employment, position, salary, changes in employment status, evaluations and merit ratings;

- employee training materials and programs (including employee manuals);

- evidence of any claims by employees against the Company (including court filings and notes of discussions about the terms and conditions of employment);

- copies of individual and collective employment agreements (labor contracts), either current or expired in the last five (5) years;

- job descriptions and documents analyzing specific features of various positions and requirements for certain posts and employees;

- correspondence with or about employees;

- general salary schedules and sales commission plans;

- descriptions of all employee benefits provided by the Company (i.e. vacation, health, pensions, bonuses and stock participation, etc.);

- record of all Company contributions to state pension, social security, health insurance, employment and other funds;

- record of all communications with employee representatives; and

- information on patents and copyrights held by employees.

D. Legal Compliance Records

Legal compliance records should include any contracts entered into by the Company (regardless of whether such agreements are still valid) and all related correspondence; documents and correspondence related to court cases or arbitration disputes; and all reports
and correspondence passing between the Company and a government agency. Such records can be divided into two categories:

- **Current documents.** This category includes all agreements which are still in full force and effect; documents regarding on-going court and arbitration proceedings; and current reports to be submitted to state authorities. Such documentation should be kept by the individual(s) or department(s) which are responsible for or oversee a particular part of the Company’s activities.

- **Archived documents.** Archival documents include agreements whose term has expired; documents regarding court and arbitration proceedings in which the Company has taken part; reports for previous years and other documentation for previous years. For continuous or temporary storage of documents, the Company may create archives (an archive subdivision).3 Reports should be kept in archives during the period contemplated by applicable regulations. If Ukrainian legislation does not specifically provide the term of and procedures for maintenance of documents at enterprises, the Company should ensure the maintenance of documents in compliance with the term specified in the bylaws on Company archives approved by the General Shareholders’ Meeting.

Legal Compliance Records are further divided into the following sub-categories:

1. **Contracts and Agreements**

- all loan documents, security agreements, sale/purchase agreements, pledges, guarantees and other agreements under which the Company is directly or indirectly indebted for borrowed money;

- all leases and deeds for real estate used or owned by the Company;

- all agreements with outside parties for the development, manufacture or delivery of the Company’s products (including all engineering and design drawings);

- agreements with suppliers, distributors and transporters, and any other contracts with outside parties made by the Company; and

- all agreements by the Company relating to the transfer of the right of ownership to its shares.

2. **Litigation and Arbitration**

- copies of all letters, complaints and claims brought by or against the Company;

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• copies of all court rulings and arbitration awards involving the Company; and

• records regarding all threatened court disputes and other claims.

3. **Securities Laws Compliance**

• proof of registration of all Company securities with the Securities and Stock Market State Commission;⁴

• the register of holders of registered securities of the Company;⁵

• Company reports relating to the issuance and circulation of securities;⁶

  - annual Company reports regarding its financial performance to be made available to the public and filed with the Securities and Stock Market State Commission; and

  - a quarterly report if the Company maintains its own shareholders' register to be filed with the Securities and Stock Market State Commission.

4. **Intellectual Property**

Ownership of intellectual property represents the exclusive right to profit from a documented idea or form of expression.⁷ In international practice, intellectual property includes the following:

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⁴ In accordance with the normative documents of the Securities and Stock Market State Commission which govern the procedure for registration of and information on share issues.

⁵ Regulation on the Procedure for Keeping the Register of Holders of Registered Securities, approved by the decision of the Securities and Stock Market State Commission dated May 26, 1998, #60.

⁶ Procedures for the preparation and submission of reports by the Company are regulated by the following:
  • The Law of Ukraine "On Securities and the Stock Exchange" dated June 18, 1991, #1201-XII;
  • Regulation on Regular Provision of Information by Open Joint Stock Companies and Bond Issuing Enterprises, approved by the decision of the Securities and Stock Market State Commission dated June 9, 1998, #72;
  • Procedures for the Preparation and Submission of Quarterly Reports Connected with the Maintenance of Registers of Holders of Registered Securities approved by the decision of the Securities and Stock Market State Commission dated September 27, 1996, #219.

⁷ The main regulations governing issues of intellectual property in Ukraine include:
  • The Civil Code of Ukraine;
  • The Law of Ukraine "On the Protection of the Rights to Invention and Design", dated December 15, 1993, #3687-XII;
  • The Law of Ukraine "On the Protection of Rights to Industrial Designs", dated December 15, 1993, #3688-XII;
  • The Law of Ukraine "On the Protection of Rights to Trademarks and Service Marks", dated December 15, 1993, #3689-XII;
  • The Law of Ukraine "On Copyrights and Ancillary Rights", dated December 15, 1993, #3792-XII;
  • The Law of Ukraine "On Protection Against Unfair Competition", dated June 7, 1996, #236/96-VR;
  • International agreements entered into by Ukraine;
  • Other regulatory and normative documents.
• industrial property, such as, patents, industrial designs, trademarks, trade names, and other intellectual property owned by the Company and often registered with the appropriate state agencies;

• copyright in documentation, such as, scientific publications including monographs, theses, reports on scientific-research; construction and technical and design works; audio-visual compositions; works of architecture, municipal construction plans; computer programs; data bases; layouts of integrated chips; copyright may also be registered;

• know-how, such as, commercial, technological, financial and organizational confidential information;

• rights in licensing agreements entered into by the Company for use of inventions covered by patents which belong to third parties or allowing third parties to use Company patents for a licensing fee;

• rights in agreements entered into by the Company on use of computer programs;

• other similar rights.

5. Periodic Reports to Other Government Agencies

In addition to financial and securities transactions reporting, Ukrainian law requires the Company to periodically submit other reports to government agencies. The Company should develop and adopt internal regulations on the organization of such reporting, establishing the procedures for preparing reports, scheduling their submission to government agencies and designating the individual or department responsible for them.

The Company may, from time to time, be required to submit the following reports:

• reports on wage payment arrears, environmental fines, fees for natural resource use and environmental protection; reports on emigration by employees, etc., to statistical agencies;

• reports regarding the size of the Company's workforce, the availability of positions or jobs, the hiring and dismissal of employees, etc., to the State Employment Service;

• accounting documentation and reports on insurance payments to the State Pension Fund; and

8 In Ukraine, copyright must be registered in order to preserve rights of ownership in a work. In some western jurisdictions, copyright is inherent in a newly created work, but registration constitutes further evidence of its creation and ownership.
• other reports to government agencies that may be required by Ukrainian laws.

E. Privatization Records

Privatization records include all documents reflecting the steps undertaken by the Company in connection with its privatization. They include:

• a copy of the privatization application submitted to the applicable privatization authority;\(^9\)

• a copy of the decision on privatization;\(^10\)

• the official valuation of the property of the enterprise, a transfer balance sheet, protocols and other documents generated by the privatization commission and inventory commission;\(^11\)

• privatization plan;\(^12\)

• copy of the decision on the approval of the privatization plan; and

• all other documentation generated by and exchanged with the privatization authority and other state agencies involved in the privatization of the enterprise.

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\(^12\) The Law of Ukraine "On the Privatization of State Property", Article 14.
A. Bankruptcy

1. Definition of Bankruptcy

Insolvency refers to a shortage of liquid assets which a Company needs to pay its obligations in order to continue its business.

Bankruptcy is a state of insolvency declared under bankruptcy legislation confirming that the Company is unable to satisfy claims brought by creditors and to pay its taxes within the time specified by current legislation.¹

In a developed market economy, bankruptcy proceedings are commonly initiated to restore the Company to financial stability and to achieve the best possible distribution of its assets. Sometimes, restructuring of poorly managed companies under bankruptcy proceedings can result in new, more viable enterprises.

2. Financial Restructuring vs. Liquidation

In the course of bankruptcy proceedings, all of the participants seriously consider two possible outcomes: financial restructuring of the debtor Company or the liquidation of its assets.

Financial restructuring of the Company comprises a system of measures geared at avoiding the liquidation of the Company. Usually it involves agreement by third parties to satisfy creditors' claims under certain terms and conditions. Financial restructuring may also be carried out by concluding an agreement with all creditors of the Company under which creditors will be paid on somewhat different terms than those initially accepted by the Company when credit and loans were extended. This form of financial restructuring enables the Company to continue its operations and minimize creditors' losses. For example, financial restructuring may involve the merger of the debtor Company with a more powerful entity that agrees to pay off its debts. It may also involve restructuring of the Company’s activities or corporate structure, liquidation of loss-making production facilities and the related sale of some of the Company’s assets. These measures should be differentiated from the wholesale liquidation of the Company’s assets as described below. Financial restructuring helps creditors and shareholders alike avoid the considerable expense, time and effort associated with the official liquidation of a bankrupt Company.

The other option is wholesale liquidation of the Company’s assets. If proposals for improving the financial position of the Company have not been submitted, or if they have been rejected, a liquidation commission is formed and charged with the repayment of the Company’s debts to creditors, using the proceeds from the sale of its assets. If the debts

are large enough, their repayment may involve the sale of so many assets that it may be impossible for the Company to continue business operations. Only in this case can an arbitration court approve the decision to liquidate a bankrupt enterprise. Therefore, the liquidation of some assets of a bankrupt Company does not necessarily result in liquidation of the Company itself.

3. The Bankruptcy Process

Ukrainian law sets out in detail the order of bankruptcy proceedings. These are adjudicated in the arbitration court whose jurisdiction includes the location of the bankrupt Company. Bankruptcy proceedings are considered among the more complicated of the matters heard by arbitration courts. Frequently, they take many months to be heard. Consequently, the sequence of events described below is intended only to provide a general idea of the steps involved in bankruptcy proceedings. Generally, proceedings move as follows:

- submission of an application to the arbitration court;
- decision by the court to initiate bankruptcy proceedings;
- publication in the press of a public notice of the initiation of bankruptcy proceedings;
- submission of claims by creditors;
- submission and consideration of proposals for improving the financial position of the debtor;
- pronouncement of the debtor bankrupt (provided that proposals for improving the financial position are unavailable or have been rejected);
- liquidation commission works to satisfy the claims of creditors;
- debtor resumes business operations after repaying its creditors.

2 Ukrainian law protects the state, its citizens and companies from other unscrupulous companies attempting to avoid the payment of debts by using the bankruptcy mechanism ("simulated bankruptcy"). Thus, Article 156-3 of the Criminal Code of Ukraine holds Company owners and officers responsible for deliberately making false declarations of bankruptcy; Article 15 of the Law of Ukraine "On Bankruptcy" provides that any attempt by a debtor to sell assets or take on additional liabilities in the year preceding the commencement of bankruptcy proceedings is considered invalid if it was made in order to conceal assets or to avoid the repayment of debts.

3 Article 21 of the Law of Ukraine "On Bankruptcy" establishes the following priorities for creditors' claims: (1) claims secured by collateral, (2) liabilities to employees of an enterprise for salaries, bonuses and other payments; (3) taxes and non-tax payments to the government; liabilities to bodies of state insurance and social welfare; (4) claims not secured by collateral; (5) claims by employees based on their contributions to the Charter fund of the Company, and repayment of the value of their shares; and (6) all other claims. Ukrainian law gives privileged status to employee shareholders of the Company not accorded to other shareholders. Such privilege does not correspond to international practice.

if the bankrupt Company lacks sufficient assets to resume business activity after satisfying all, or a proportion of its debts, the arbitration court may order its liquidation as a legal entity;

- liquidation of the bankrupt Company as a legal entity.

4. Launching Bankruptcy Proceedings

Either the Company or its creditors may initiate bankruptcy proceedings. It is commonly the creditors who initiate bankruptcy proceedings. This happens only after creditors carefully evaluate whether they stand a better chance of collecting on their debts by preserving the debtor Company as an ongoing business concern (i.e., by restructuring its activities or rescheduling debt payments) or by pursuing liquidation of the Company's assets to claim a share of the liquidation proceeds. For example, the Company may be able to reschedule and reorganize its existing debts if creditors stand to lose even more from liquidation.

In international practice, bankruptcy proceedings are frequently initiated by the debtor Company itself. Such voluntary declarations of bankruptcy by the debtor are expressly allowed by Ukrainian law. This procedure often enables the debtor Company to repay its debts within a reasonably short time, and then resume business operations. By voluntarily initiating bankruptcy proceedings, the debtor avoids going deeper into debt and gains the chance to negotiate proposals for improving its financial position.

B. Liquidation

1. Definition of Liquidation

Liquidation of the Company entails a complex set of financial and legal measures directed at ending its existence as a legal entity without passing on its rights or obligations to another entity.

Although bankruptcy is one cause of liquidation, liquidation of the Company is not always the result of its insolvency. A Company may be liquidated:

- after the expiration of the term for which it was initially established, after the objectives set forth in its founding documents have been achieved or under other circumstances described in its founding documents;

- based on a decision of the General Shareholders' Meeting to wind up the affairs of the Company;

5 The Law of Ukraine "On Bankruptcy", Article 5.
based on a decision of a trial or arbitration court considering a request by a regulatory agency based on continuous and material legal violations by the Company. These include cases in which:

- the Company's activities contradict the provisions of constituent documents and current legislation;
- the Company's founding documents are found to be invalid or illegal;
- the Company delays notifying authorities of a change in its name, organizational form, form of ownership, and location;
- the Company does not submit accounting documents required by current legislation to tax authorities for over a year.

2 Liquidation Procedures

A liquidation commission appointed by the Company's General Shareholders' Meeting oversees the process of liquidation of the Company. If the Company is liquidated pursuant to a court decision, the court appoints a liquidation commission. The basic steps of a liquidation commission's work are as follows:

- publishing a public notice of the Company's liquidation with a deadline for the submission of creditors' claims in the official press (central and local);
- conducting a valuation of the Company's property;
- selling assets and taking other measures needed to settle accounts with debtors and creditors of the Company;
- distributing the Company's cash (including proceeds from the sale of its property) remaining after settlement with the Company's creditors among shareholders in proportion to the stake held by each shareholder in the Charter capital of the Company.

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10 Article 35 of the Law of Ukraine "On Enterprises in Ukraine" requires that creditors be given at least two months to submit claims.
11 They include the state (with respect to taxes and other payments to the budget); employees (salaries and other payments); bondholders; banks, et cetera.
12 This is the most widespread method. Article 21 of the Law of Ukraine "On Companies" provides for an option for specifying in the Company Charter other procedures for distributing cash received after the sale of the Company's property in the course of its liquidation.
BANKRUPTCY AND COMPANY LIQUIDATION

• drawing up and submitting the liquidation balance\textsuperscript{13} for approval by the body that appointed the liquidation commission;

• submitting documents needed to cancel the Company's registration to the appropriate government agency.\textsuperscript{14}

At this point, liquidation of the Company is considered complete, and the Company ceases to exist from the moment it is recorded in the state register as defunct.\textsuperscript{15}

\textsuperscript{13} The accuracy and completeness of the liquidation balance for companies with an annual turnover exceeding 250 non-taxable minimum incomes must be confirmed by an external auditor under Article 20 of the Law of Ukraine "On Companies".

\textsuperscript{14} The list of such documents is set forth in clause 34 of the Regulation of the Cabinet of Ministers on the Procedure for State Registration of Business Entities. Thus, for example, in order to obtain references from the tax authorities regarding the removal of the Company from the register, it is necessary to confirm tax payments and other budgetary contributions, repay outstanding debts, provide reports for the appropriate periods, etc.

\textsuperscript{15} The Law of Ukraine "On Companies", Article 22.
APPENDICES
APPENDIX #1

APPROVED
by the General Shareholders' Meeting
of Open Joint Stock Company
"__________________________"
Minute # ____________________
as of "_____" ___________ 199__.

C H A R T E R
OF OPEN JOINT STOCK COMPANY
"__________________________"

City of ____________________

199__

107

1.1. Open Joint Stock Company "______________________" (hereinafter referred to as the Company) has been established in accordance with Articles of Association (decision of state authority) as of "____" ________ 1999, # ___ through transformation of ______________________ (designation of business entity) into an open joint stock company __________________ on the basis of ____________ (reference to relevant regulation).

1.2. The founders of the Company shall be:

- ________________________________ (designation of relevant state authority);
- ________________________________;
- ________________________________;

Shareholders of the Company shall be: the state as represented by ______________________ (designation of relevant state authority), as well as legal entities and natural persons who acquired Company shares during privatization, additional share issue, or on the stock market.

1.3. The Company shall be the legal successor of ____________________________ (designation of state enterprise).

1.4. As of the date of state registration, the Company shall be a legal entity and shall have separate property to be maintained on its balance sheet; settlement, currency and other bank accounts: a seal, a stamp, as well as its own trade mark and other requisites of a legal entity.

1.5. The Company shall carry out its activities in accordance with current legislation of Ukraine, its Articles of Association, and this Charter.

1.6. The Company shall have the right of ownership of its property.

1.7. Company property shall be acquired from sources not prohibited by current legislation of Ukraine.

1.8. The Company shall own, use, and dispose of its property in accordance with the objectives of activities established by the Company.

1.9. The Company shall be liable for its obligations to the extent of its property which may be used to satisfy the claims of creditors in accordance with current legislation of Ukraine.

1.10. The Company shall not be liable for obligations of its founders and/or shareholders, and the founders and/or shareholders shall be liable for obligations of the Company only to the extent of their contribution to the Charter capital of the Company, including any part of a contribution which was not paid in full.
1.11. The name of the Company shall be:
   In Ukrainian – __________________________;
   In Russian – __________________________;
   In English – __________________________.

The abbreviated name of the Company shall be:
   In Ukrainian – __________________________;
   In Russian – __________________________;
   In English – __________________________.

1.12. Location of the Company: ____________________________.

2. Objectives and Subject of Activity of the Company

2.1. The Company has been established to carry out entrepreneurial activities and to earn profit in the interests of shareholders and employees of the Company.

2.2. Company activities shall include the following:
   a) ________________________________;
   b) ________________________________;
   c) ________________________________.

2.3. Special kinds of activities shall be carried out provided that relevant permits are available (license, patent, certificate, etc.) and are issued in accordance with current legislation of Ukraine.

2.4. The Company shall independently carry out any kind of international financial activity related to its business. While being engaged in any kind of international financial activity, the Company shall enjoy in full all rights provided for by current legislation of Ukraine.

3. Charter Capital and Shares of the Company

3.1. The Charter capital of the Company shall be Hr. ____________.

3.2. The Charter capital of the Company shall be divided into shares:

<table>
<thead>
<tr>
<th>Category and type of shares</th>
<th>Number of shares</th>
<th>Face value</th>
<th>Stake in Charter capital (%)</th>
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<tbody>
<tr>
<td>ordinary registered shares</td>
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<td>ordinary bearer shares</td>
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<tr>
<td>preferred registered shares</td>
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<td></td>
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</tr>
<tr>
<td>preferred bearer shares</td>
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</tbody>
</table>
3.3. The Company shall have the right to change (increase/decrease) the amount of its Charter capital. An increase in Charter capital shall be possible only after all previously issued shares have been paid for in full at a price not lower than their face value. The Company shall be prohibited from decreasing its Charter capital if creditors object to such a decrease.

The decision to increase/decrease the Charter capital shall be approved by the General Shareholders' Meeting of the Company.

3.4. The amount of Charter capital may be increased through:
   a) an increase in the number of shares of current face value;
   b) an increase in share face value;
   c) an exchange of bonds for shares.

3.5. The amount of Charter capital may be decreased through:
   a) a decrease in share face value;
   b) a decrease in the number of shares of current face value.

3.6. The decision of the General Shareholders' Meeting to decrease the Charter capital through a decrease in share face value shall provide that certificates of shares not submitted for cancellation by shareholders shall be deemed invalid upon the expiration of six months following the relevant written notification of shareholders.

3.7. The Company shall issue shares for the total amount of its Charter capital and shall carry out registration of shares pursuant to the procedure set out in current legislation.

3.8. The procedure and terms for allocation of Company shares shall be specified in the resolution of the Company on the share emission, in the information provided on such share emission, and in internal documents adopted by the Company.

3.9. Company shares shall be paid for in cash, securities, other property or property rights which have monetary value. Valuation of securities, property and property rights contributed to the Charter capital of the Company shall be carried out by an independent auditor.

3.10. Company shares shall be paid for in full during their allocation and in the form of payment established by the resolution on share issue.\footnote{The Company may provide other terms for the payment for shares, provided that the period within which payment for shares must be made in full, may not exceed one (1) year from the date of registration of the amendments to the Charter increasing the Charter capital. In the case of a share sale with deferred payments, it is important to set out in detail the conditions upon which shares will revert to the Company, where payment for such shares is delayed and to provide for sanctions and penalties for such delayed payments.}
3.11. In the case of an additional emission of shares with current face value, all shareholders shall enjoy an equal right of first refusal to purchase additionally issued shares in proportion to their stake in the Charter capital of the Company as of the date the resolution on additional share emission was passed.

The procedure for shareholders to exercise their right of first refusal to purchase additionally issued shares at current face value shall be specified in the resolution on share emission and in Company bylaws.

3.12. If agreed by shareholders, the Company may purchase its own shares (held and paid in full by shareholders) for their subsequent resale, allocation among Company employees or for cancellation. The Company shall purchase its own shares at market value or at a price determined by an independent expert.

The Company must redeem shares held by its shareholders in cases stipulated by current legislation of Ukraine. The Company shall redeem shares at a price established in accordance with current legislation of Ukraine.

The procedure for purchase and redemption by the Company of its own shares shall be established by relevant Company bylaws.

4. The Procedure for Distribution of Profits and Coverage of Losses

4.1. The procedure for distribution of profit and coverage of losses of the Company shall be determined by a resolution of the General Shareholders' Meeting in accordance with current legislation of Ukraine, the Company Charter, and Company bylaws.

4.2. Company profit shall be distributed through the creation and replenishment of specific Company funds. The General Shareholders' Meeting shall approve any decision on the creation of specific Company funds and the amount allocated to each fund. Retained profit of the Company shall be used to create the following funds:
   a) the reserve fund;
   b) the dividend fund;
   c) other funds (for production development, development of personnel, bonuses and incentives to employees, etc.).

4.3. The reserve fund shall be created through annual allocations in an amount of not less than 5% of the Company profit retained after taxes and other budget payments. The reserve fund shall constitute not less than 25% of the amount of the Charter capital.

4.4. The dividend fund shall be used to pay dividends to shareholders of the Company. Dividends, if any, shall be paid from Company profit calculated in accordance with international accounting standards.
4.5. Natural persons and legal entities who are shareholders of the Company as of the date scheduled for the beginning of dividend payments shall be entitled to receive dividends.

Dividends shall be paid only on shares that have been paid for in full.

4.6. The amount of dividend payable shall be determined by the General Shareholders’ Meeting upon the recommendation of the Board of Directors, and may not be higher than that recommended by the Board of Directors.

The amount of dividends shall be established in Hrivnyas (local currency) payable on one share.

4.7. In accordance with the decision of the General Shareholders' Meeting, dividends shall be paid once per year, if any dividend is paid.

4.8. Dividends shall be paid only in the form of cash or securities, as determined by the General Shareholders' Meeting. The procedure for payment of dividends shall be established by Company bylaws.

4.9. Declaration of dividends on ordinary shares is not an automatic obligation of the Company to its shareholders. The General Shareholders' Meeting shall be entitled to decide that, based on year-end results, it may not be expedient to declare and pay dividends on ordinary shares.

After the resolution to pay a dividend has been passed by the General Shareholders' Meeting, the Company shall have the obligation to pay dividends within the time stipulated by the relevant Company bylaw.

4.10. To cover its losses, the Company may use retained profit accumulated in previous years.

4.11. In the case of losses incurred in the current year, the Company shall be entitled to reduce taxable future profit by the value of previous losses. The procedure for reduction of taxable profit shall be governed by current legislation of Ukraine.

5. Rights and Obligations of Company Shareholders

5.1. The holders of ordinary shares shall all be equally entitled:
   a) to take part in the governance of the Company by participating and voting at the General Shareholders’ Meeting in person or through authorized representatives;
   b) to have access to any information relating to the operations of the Company except for restricted or confidential information. It shall be prohibited to restrict access of shareholders to financial accounting documents or internal bylaws of the Company. The procedure for provision of information on the Company's
operations and the list of restricted information shall be governed by current legislation of Ukraine and by Company bylaws.

c) unless otherwise provided by current legislation of Ukraine, to freely dispose of Company shares, namely to sell or otherwise alienate them in favor of other legal entities or natural persons without preliminary notice to or consent from other shareholders or the Company. The transfer and realization of the right of ownership to Company shares shall be carried out in accordance with current legislation of Ukraine;

d) to share in Company profits and receive dividends pursuant to the procedure established by current legislation of Ukraine and by Company bylaws;

e) to have the right of first refusal to purchase additionally issued shares of the Company;

f) in the case of Company liquidation, to receive, in proportion to his/her stake in the Charter capital of the Company, a due share of cash obtained from the sale of Company assets remaining after settlements with Company employees, state budget, and creditors;

g) [____________________________];

h) [____________________________].

5.2. The holders of preferred shares shall be entitled:

a) to a priority right on dividends as compared to the holders of ordinary shares, which means that dividends on preferred shares shall be paid in a preliminary established amount irrespective of the amount of profit made by the Company during the relevant year;

b) to a priority right to share in Company assets in the case of liquidation of the Company. Under this priority right, in the case of liquidation of the Company, the holders of preferred shares shall receive a preliminary established share of cash prior to respective settlements with holders of ordinary shares;

c) to participate in the General Shareholders' Meeting of the Company and vote on the following issues:

• on reorganization and liquidation of the Company;

• on conclusion by the Company of an agreement or several related agreements on the purchase or sale of Company assets whose value exceeds ___% of the balance sheet value of Company assets as of the date of the adoption of such a decision;

• on introduction of amendments and alterations to the Company Charter (if such amendments limit or otherwise infringe on the rights of holders of preferred shares);

• on the decrease of dividends payable on preferred shares and/or fixed amount of cash (liquidation value) payable in the case of Company liquidation;

d) on other rights stipulated by current legislation of Ukraine and the Company Charter.
5.3. Shareholders of the Company shall:
   a) observe the requirements of the Charter and Company bylaws and carry out decisions of the General Shareholders' Meeting and other governance bodies of the Company made within the scope of their powers;
   b) fulfill their obligations to the Company and pay for shares in the amount and in accordance with the procedure set out in the Charter and Company bylaws;
   c) not disclose commercial secrets and confidential information on activities of the Company;
   d) [__________________________];
   e) [__________________________].

5.4. Shareholders may have other rights and obligations set out in current legislation of Ukraine, this Charter, and Company bylaws.

6. Management Bodies of the Company

6.1. The Company shall have the following governance and management bodies:
   a) General Shareholders' Meeting
   b) Board of Directors
   c) Management
   d) Audit Committee.

6.2. The General Shareholders' Meeting shall be the highest governance body of the Company. Legal entities and natural persons who are shareholders of the Company as of the date of the meeting (or their authorized representatives) shall be entitled to take part in the General Shareholders' Meeting.

6.3. The General Shareholders' Meeting shall have the following powers:
   a) to determine the major direction of Company activities and to approve plans and reports on their fulfillment;
   b) to introduce amendments and alterations to the Charter;
   c) to elect and recall members of the Board of Directors of the Company;
   d) to elect and recall members of Management and the Audit Committee;
   e) to approve annual results of Company operations, including the Company's subsidiaries, as well as to approve the reports and conclusions of the Audit Committee, the procedure for distribution of profit, the term and procedure for payment of dividends, and to determine the procedure for coverage of losses;
   f) to create, reorganize, and liquidate subsidiaries, affiliates, and representative offices, as well as to approve their charters and bylaws;
   g) to adopt decisions on calling Company officers to account;
   h) to approve Company bylaws and other internal documents, and to determine the organizational structure of the Company;
   i) to resolve questions arising on the acquisition by the Company of its own shares;
   j) to determine compensation to officers of the Company, its subsidiaries, affiliates, and representative offices;
   k) to approve any decision on the termination of Company operations,
appointment of a liquidation committee, and approval of the liquidation balance;

1) to resolve issues arising on the transfer of functions related to maintaining the register of holders of registered securities;

m) to approve the terms of the agreement on maintaining the register of holders of registered securities;

n) ____________________________________________;

o) ____________________________________________.

The powers specified in sub-clauses b), e), f), k), and l) shall fall under the exclusive jurisdiction of the General Shareholders' Meeting and may not be delegated to other governance or management bodies of the Company.

6.4. A regular General Shareholders' Meeting shall be convened by Management of the Company at least once per year and shall be held no later than _______ months after the end of the fiscal year.

6.5. An extraordinary General Shareholders' Meeting shall be convened by Management on its own initiative, the initiative of the Board of Directors or the Audit Committee, in the case of insolvency of the Company, if required by the interests of the Company as a whole, as well as in the following cases:

a) ________________________________________;

b) ________________________________________;

c) ________________________________________.

6.6. An extraordinary General Shareholders' Meeting shall be convened by Company Management at any time and for any reason upon the demand of shareholders who hold in the aggregate more than 10% of Company shares. If Management fails to satisfy the above mentioned demand of shareholders who hold more than 10% of Company shares within twenty (20) working days, these shareholders shall be entitled to convene the General Shareholders' Meeting on their own pursuant to the procedure stipulated by current legislation of Ukraine and Company bylaws.

6.7. No later than forty-five (45) days before the date of the holding of the meeting, Company Management shall publish a notice of the General Shareholders' Meeting in the official newspaper of [Verkhovna Rada, Cabinet of Ministers or Securities and Stock Market State Commission], [name of newspaper] and one of the local newspapers or periodicals. The notice shall specify the name and location of the Company, the date, time, and place of the holding of the meeting, the list of issues included in the agenda, as well as the procedure for familiarizing shareholders with the information relating to the issues included in the agenda, and the address for submission of proposals for the agenda of the meeting. Furthermore, the above notice shall be sent no later than forty-five (45) days before the date of the holding of the General Shareholders' Meeting to the holders of registered shares by registered mail or delivery against receipt.
6.8. No later than thirty (30) days before the date of the holding of the General Shareholders’ Meeting, each shareholder shall be entitled to propose additional issues to be included in the agenda of the meeting. Proposals for the agenda submitted by shareholders who hold in the aggregate more than 10% of the shares may not be rejected by Company Management.

6.9. Company Management shall notify shareholders of all changes to the agenda of the General Shareholders’ Meeting by publishing such information in the official newspaper [Verkhovna Rada, Cabinet of Ministers or Securities and Stock Market State Commission], [name of newspaper] and one of the local periodical newspapers no later than ten (10) days before the date of the holding of the meeting.

6.10. The General Shareholders’ Meeting shall be deemed valid provided that a quorum is present; that is, if the meeting is attended by shareholders or their authorized representatives who in the aggregate hold more than 60% of Company shares. The General Shareholders’ Meetings shall be empowered to pass resolutions on any issues relating to the activities of the Company. Resolutions on issues of the agenda shall be deemed passed if voted for by more than 50% of shareholders or their authorized representatives who take part in the General Shareholders’ Meeting. A three-quarters (3/4) majority vote of shareholders or their authorized representatives who take part in the meeting shall be required to pass a resolution on the following issues:
   a) amendments and alterations to the Charter;
   b) termination of the Company’s operations;
   c) creation and liquidation of subsidiaries, affiliates, and representative offices of the Company.

During the election of the Board of Directors, the Company shall use an election procedure which allows a shareholder either to give all his/her votes (which equal the number of Company shares he/she holds) to one candidate, or to distribute the votes among several candidates.

6.11. The Board of Directors shall be the governance body of the Company which represents the interests of shareholders in the intervals between General Shareholders’ Meetings, and which oversees Management of the Company.

6.12. The Board of Directors shall be elected by the General Shareholders’ Meeting from among the shareholders of the Company for a term of _______ years and shall comprise ________ members. A Board member may not simultaneously be a member of Management and/or the Audit Committee of the Company.

6.13. Within the scope of its powers, the Board of Directors shall:
   a) demand convening of an extraordinary General Shareholders’ Meeting if required by the interests of the Company as a whole;
   b) resolve specific issues submitted for the consideration of the General Shareholders’ Meeting;
c) consider conclusions and reports on official inquiries and investigations submitted by the Audit Committee;

d) submit recommendations on issues related to Company operations to the General Shareholders' Meeting;

e) adopt the agenda of the General Shareholders' Meeting and carry out preliminary consideration of agenda issues;

f) consider current reports of Management on the operations of the Company;

g) analyze actions of Management on the implementation of investment, technical, and pricing policies, and day-to-day management of Company operations;

h) initiate extraordinary audits of the Company;

i) finalize draft agreements (contracts) concluded for an amount which exceeds the equivalent of ____________ US dollars at the official exchange rate of the National Bank of Ukraine as of the date of finalizing such an agreement (contract).

j) recommend to the General Shareholders' Meeting the method for changing the Charter capital of the Company and its amount;

k) recommend to the General Shareholders' Meeting the amount of dividends to be paid on Company shares;

l) submit recommendations to the General Shareholders' Meeting on the feasibility of creating or liquidating subsidiaries, affiliated, and representative offices.

The above mentioned powers shall fall under the exclusive jurisdiction of the Board of Directors and may not be delegated to any other governance or management body of the Company.

The General Shareholders' Meeting may also pass a resolution delegating some of its powers to the Board of Directors.

6.14. The procedure for calling and holding regular and extraordinary meetings of the Board of Directors shall be governed by relevant Company bylaws.

6.15. Meetings of the Board of Directors shall be held as required but not less than once every three (3) months. A meeting of the Board of Directors shall be deemed valid if attended by at least two-thirds (2/3) of the total number of its members. Each member of the Board of Directors shall have one vote. Resolutions of the Board of Directors shall be passed if voted for by more than 50% of the Board members present at the meeting.

6.16. The Board of Directors shall submit to the General Shareholders' Meeting an annual report on its activities in accordance with the procedure set out in Company bylaws.

6.17. Management shall be the Company's executive management body and shall carry out day-to-day management of the Company's operations.

6.18. Members of Management shall be elected by the General Shareholders' Meeting for
a term of ___ years. Management shall comprise ____ members. The General Shareholders' Meeting shall be entitled to delegate its powers to elect the Company's Management to the Board of Directors. The Company's Management shall include the Chief Executive office (CEO), the first Deputy CEO, and other members of Management.

A member of Management may not simultaneously be a member of the Board of Directors or the Audit Committee. The procedure for election (appointment) of Management shall be specified in relevant Company bylaws.

6.19. Company Management shall be empowered:
   a) to approve current plans for the Company's operations and measures for implementation of such plans;
   b) to develop business plans and other programs of financial and business activities for the Company;
   c) to enter into agreements (contracts) for an amount which shall not exceed the equivalent of __________ US dollars at the official exchange rate of the National Bank of Ukraine as of the date such agreements (contracts) have been concluded;
   d) to approve the annual budget as well as salaries and wages of Company employees (except Company officers);
   e) to ensure appropriate book-keeping and accounting and provide an annual report and balance sheet of the Company for approval by the General Shareholders' Meeting.
   f) to hire and terminate employees, maintain personnel records, and determine bonuses and penalties for Company employees;
   g) to convene and hold the General Shareholders' Meeting, as well as to approve the agenda of such meetings, as agreed upon with the Board of Directors;
   h) to conclude labor contracts;
   i) to perform other actions set out in this Charter, Company bylaws, and resolution of the Board of Directors and the General Shareholders' Meeting.

Issues specified in sub-clauses a), b), d), and e) shall fall under the exclusive jurisdiction of Management and may not be delegated to the sole discretion of the CEO.

The scope of powers of Company Management shall include all issues related to the activities of the Company, except those which fall under the authority of other management or governance bodies of the Company in accordance with current legislation of Ukraine, this Charter, and decisions of the General Shareholders' Meeting. The General Shareholders' Meeting shall be entitled to delegate some of its powers to Company Management.

6.20. The procedure for calling and holding regular and extraordinary meetings of Management shall be governed by the relevant Company bylaws.
6.21. Decisions of Management shall be made either jointly with the CEO during meetings of Management, or individually by the CEO provided that such powers have been delegated to him. Meetings of Management shall be held as required but not less than once per month. Meetings of Management shall be deemed valid if attended by at least two-thirds (2/3) of its members. Each member of Management shall have one vote. Resolutions of Management shall be passed if voted for by more than 50% of Management members present at the meeting.

6.22. The CEO shall be elected by the General Shareholders' Meeting for a term of _____ years. The CEO shall govern the activities of Management.

The CEO shall be entitled:
   a) to represent the interests of the Company and act on behalf of the Company without power of attorney;
   b) to dispose of the Company's funds and property within the limits established by the Company Charter and by decisions of the General Shareholders' Meeting and the Board of Directors;
   c) to sign powers of attorney, contracts (agreements) and other documents on behalf of the Company;
   d) to assign responsibilities to members of Management;
   e) to resolve other issues delegated by Management.

6.23. The first Deputy CEO shall assist the CEO in organizing the activities of Management and shall replace the CEO during his or her absence.

6.24. The Audit Committee shall carry out an inspection of the financial and business activities of Management, as well as those of the subsidiaries, affiliates, and representative offices of the Company.

6.25. The Audit Committee shall be elected by the General Shareholders' Meeting from among Company shareholders for a term of _____ years and shall comprise _____ members.

A member of the Audit Committee may not simultaneously be a member of the Board of Directors or Management, or act in any other official capacity for the Company.

6.26. The Audit Committee shall carry out regular and extraordinary audits. The procedure for carrying out audits and organizing the operation of the Audit Committee shall be governed by relevant Company bylaws.

6.27. The Audit Committee shall carry out regular audits based on year-end results. The General Shareholders' Meeting may not approve the annual balance sheet without the conclusions of the Audit Committee.
APPENDIX #1

6.28. The Audit Committee shall carry out extraordinary audits:
   a) pursuant to the decision of the General Shareholders' Meeting;
   b) pursuant to the decision of the Board of Directors;
   c) on its own initiative;
   d) upon the demand of shareholders who hold in the aggregate more than 10% of shares.

6.29. The Audit Committee shall prepare its conclusions on the basis of the results of regular and extraordinary audits.

6.30. The Audit Committee shall report on the results of its audits to the General Shareholders' Meeting and the Board of Directors and shall submit its annual report for the consideration of the General Shareholders' Meeting.

6.31. The Audit Committee shall demand convening of an extraordinary General Shareholders' Meeting or the holding of a meeting of the Board of Directors in the case of a threat to the best interests of the Company or if abuses and/or malfeasance on the part of Company officers have been revealed.

6.32. The Chairman and members of the Board of Directors, the CEO and members of Management, and the Chairman of the Audit Committee shall be officers of the governance and management bodies of the Company and may be held liable in accordance with current legislation of Ukraine and Company bylaws.

6.33. Officers of the governance and management bodies of the Company shall be deemed to have a personal financial interest in a matter if they or their relatives have ownership rights in, maintain labor relations with, and/or are creditors of legal entities or natural persons:
   a) who are Company suppliers;
   b) who are substantial Company customers;
   c) who may profit from disposal of the Company's property;
   d) whose property is purchased by the Company in full or in part.

If a Company officer or his/her close relatives are financially interested in an agreement in which the Company is or intends to become a party, as well as in the case of other conflicts of interests of the officer with regard to current or future agreements of the Company:
   a) the officer shall notify the Board of Directors of his/her conflict of interest prior to conclusion of such agreement; and
   b) the agreement must be approved by a majority of Board members who do not have an interest in such agreement.

If the officer of the Company has any doubts whether his/her actions or relations might result in a conflict of interest, he/she shall notify the Board of Directors of such interest so that the Board might consider and resolve the issue.
An officer who has duly notified the Board of Directors of his/her conflict of interest may not take part in the voting on such agreement or any matter related to such interest.

7. The Workers’ Collective of the Company

7.1. The Workers’ Collective of the Company shall comprise all persons who take part in the activities of the Company pursuant to a labor agreement (contract), as well as other agreements which govern labor relations of employees with the Company.

7.2. The Company shall independently determine the forms and systems of payment for work, amount of wages, and other types of remuneration for its employees.

7.3. The general meeting of the Workers’ Collective shall be the highest body of the Workers’ Collective. The general meeting of the Workers’ Collective shall:
   a) approve draft collective (company-wide) agreements;
   b) resolve issues relating to self-governance of the Workers’ Collective;
   c) determine and approve the list of social benefits and the procedure for provision of such benefits to Company employees.
   d) ____________________________________________;
   e) ____________________________________________.

7.4. The Council of the Workers’ Collective shall represent the interests of the Workers’ Collective in relations with Company Management. The Council of the Workers’ Collective shall be elected with a two-thirds (2/3) majority vote by secret ballot at the general meeting of the Workers’ Collective from among Company employees. The Council shall be elected for a term of ______ years and shall comprise ______ members. Members of the Council of the Workers’ Collective may not be terminated or transferred to another position on the initiative of Company Management without the prior consent of the Council of the Workers’ Collective.

7.5. Within the scope of its powers, the Council of the Workers’ Collective shall:
   a) sign a collective agreement with Company Management;
   b) agree with Company Management upon the list of social benefits and the procedure for provision of such benefits to employees of the Company;
   c) develop and submit for the consideration of Management internal work rules and regulations;
   d) develop and agree with Company Management on programs of bonuses and other incentives, as well as incentives for inventions and innovations;
   e) submit to Company Management requests to award bonuses and incentives, as well as to discipline employees of the Company;
   f) resolve other issues related to the self-governance of the Workers’ Collective.

7.6. Social and labor rights of Company employees are guaranteed by current legislation of Ukraine.
7.7. Company procedures may set out additional social and labor benefits for all employees or specific categories of Company employees.

8. Reorganization and Liquidation of the Company

8.1. Operations of the Company shall be terminated upon its reorganization or liquidation. In the case of reorganization, all rights and obligations of the Company shall be assumed by its legal successor.

8.2. Reorganization of the Company (merger, take-over, division, spin-off, transformation) shall be carried out in accordance with a resolution of the General Shareholders' Meeting or by order of the court.

8.3. To protect the rights of shareholders, the Company shall be obliged to carry out a valuation and redeem shares held by shareholders who demand such a redemption if they voted against the motion to reorganize. The valuation and redemption of shares shall be carried out in accordance with current legislation of Ukraine and Company bylaws. Shares redeemed by the Company shall be canceled.

8.4. In the event of a share emission during reorganization as set out in paragraphs 8.6, 8.9, and 8.11, the sale of shares by the Company shall be prohibited. During reorganization the shares shall be allocated through:
   a) conversion of shares of a reorganizing Company into shares of the Company or companies created during reorganization by way of merger, division, spin-off, and transformation or conversion into shares of a joint stock company whose Charter capital is increased as a result of take-over;
   b) exchange of holdings of founders ( contributors) of a reorganizing enterprise for additional shares of the Company issued to increase the Charter capital as a result of take-over.

8.5. Limitation of the term for conversion or exchange of shares of a reorganizing enterprise for shares of the Company/Companies created as a result of reorganization shall be prohibited.

8.6. The procedure for reorganization of the Company through merger or take-over shall include the following:
   a) signing by Company Management and executive bodies of all reorganizing enterprises of the draft agreement on merger/take-over. Shareholders of the Company shall be given the opportunity to become familiar with the draft agreement on the merger/take-over, detailed financial statements and explanations, as well as other information relating to reorganization of the Company no later than thirty (30) days prior to consideration of the above draft agreement by the General Shareholders' Meeting;
   b) passing of a resolution by the General Shareholders' Meeting to reorganize through merger/take-over, approval of the draft agreement on merger/take-over (with the wording of the draft agreements to be approved by the highest
governing body of each reorganizing enterprise to be identical), and approval of
a transfer balance sheet;
c) signing by the executive bodies of each reorganizing enterprise of the agreement
on merger/take-over which has been approved by the highest governing body
of each reorganizing enterprise;
d) valuation and redemption by the Company of shares held by shareholders who
voted against the reorganization in accordance with the procedure set out in
Company bylaws;
e) passing of resolutions by the constituent meeting of a business entity created as
the result of a merger on: approval of the Charter, election of governing and
management bodies, and other issues related to reorganization if so provided by
the merger agreement; in the case of a take-over, resolutions of the General
Shareholders' Meeting on the increase of the Charter capital through the
additional emission of shares with current face value, approval of the respective
amendments and alterations to the Charter, and on other issues related to
reorganization, if so provided by the merger agreement;
f) exchange of Company shares for shares (stakes of founders/contributors) of a
business entity created as a result of the merger, or for shares (stakes of
founders/contributors) of a business entity which is being taken over by the
Company or which takes over the Company.

8.7. A merger/take-over agreement whose conclusion is stipulated by clause 8.6. of this
Charter shall include information on the procedure and terms of the merger/take­
over, as well as the procedure for exchange of shares or stakes of
founders/contributors of enterprises reorganizing through merger/take-over for the
shares (stakes of founders/contributors) of a business entity created as the result of
the merger/take-over.

8.8. The conversion of shares or exchange of stakes held by the founders/contributors of
enterprises which reorganize through merger/take-over for shares (stakes held by the
founders/contributors) of a business entity created as a result of a merger/take-over
shall be carried out in the proportion specified by the merger/take-over agreement.
The above mentioned proportion shall be the same for all shareholders
(founders/contributors) of each Company (enterprise) which takes part in the
reorganization.

8.9. The procedure for reorganization of the Company through division/spin-off with the
creation of one or several enterprises shall include the following:
a) passing of resolutions by the General Shareholders' Meeting on: reorganization
through division/spin-off, creation of business entities during reorganization,
terms for the exchange of Company shares for the shares (stakes of foun­
ders/contributors) of business entities created as a result of reorganization,
approval of the distribution balance, and on other issues related to reorganization;
b) valuation and redemption by the Company of shares held by shareholders who
voted against the reorganization in accordance with the procedure set out in
Company bylaws.
c) passing of resolutions by the meeting of the founders of each business entity created as a result of division/spin-off on: approval of the Charter, election of management and governance bodies, and on other issues related to reorganization as provided by the resolutions on reorganization;
d) exchange of Company shares for the shares (stakes of founders/contributors) of business entities created as a result of division/spin-off.

8.10. During the exchange of Company shares for the shares (stakes of founders/contributors) of business entities created as a result of division/spin-off, each shareholder of the Company shall receive a number of shares (stakes) in the newly established business entities which are proportionate to the ratio of the amount of Charter capital of a newly established business entity to the amount of Charter capital of the Company prior to reorganization.

8.11. The procedure for reorganizing the Company through transformation into a closed joint stock company shall include the following:
   a) passing of resolutions by the General Shareholders’ Meeting on: reorganization through transformation into a closed joint stock company, the terms for exchange of Company shares for shares of the closed joint stock company, and on the emission of shares of the closed joint stock company;
   b) valuation and redemption by the Company of shares held by shareholders who voted against the reorganization in accordance with the procedure set out in Company bylaws;
   c) passing of resolutions by the constituent meeting of shareholders of the closed joint stock company created during transformation on: approval of the Charter, election of management and governance bodies, and on other issues related to reorganization as provided by the resolution on reorganization;
   d) exchange of Company shares for shares of the closed joint stock company created during transformation.

8.12. The stake (in percent) of each shareholder in the Charter capital of the Company shall be equal to his/her stake (in percent) in the Charter capital of the closed joint stock company created during the transformation.

8.13. The Company shall be liquidated:
   a) if a resolution to liquidate the Company has been passed by the General Shareholders’ Meeting;
   b) pursuant to an order of the court or an arbitration tribunal on grounds set out in current legislation of Ukraine.

8.14. Apart from grounds provided for liquidation by current legislation of Ukraine, the following reasons shall be deemed valid for liquidation of the Company:
   a) ________________________________ ;
   b) ________________________________ ;
   c) ________________________________ ;
   d) ________________________________ .
8.15. The Company shall suspend its business activities after a resolution on its liquidation has been passed.

8.16. The procedure for liquidation of the Company shall be governed by current legislation of Ukraine, this Charter, orders of the court (in the case of liquidation pursuant to an order of the court or arbitration tribunal) and resolutions passed by the General Shareholders' Meeting.

8.17. If the Company is declared bankrupt, the procedure for Company liquidation as well as creation and operation of a liquidation committee shall be established in accordance with the Law of Ukraine "On Bankruptcy".

8.18. The liquidation committee shall implement a series of legal actions to ensure the liquidation of the Company and shall be entitled to dispose of the Company's assets. The composition of the liquidation committee shall be approved by the body which resolved to liquidate the Company.

8.19. To fulfill its functions, the liquidation committee shall:
   a) manage the Company's property;
   b) ensure that an inventory and valuation of the Company's property are made;
   c) ensure the collection of all money owing to the Company from its accounts receivable;
   d) sell and realize on the Company's assets;
   e) carry out other steps required to satisfy the claims of the Company's creditors.

8.20. Property valuation during the liquidation of the Company shall be carried out in accordance with the procedure set out by Company bylaws.²

8.21. The liquidation committee shall announce through the mass media information on the sale of the Company's assets and shall specify major terms for the conclusion of appropriate agreements. If only one proposal to purchase the Company's assets has been submitted within ____ days, the agreement shall be entered into at a price determined in accordance with the procedure set out in clause 8.20. of this Charter. If several proposals have been submitted within the above time, the liquidation committee shall hold an auction in accordance with the procedure set out by the Law of Ukraine "On Privatization of Small State-Owned Enterprises (On small-scale privatization)".

If no proposals have been submitted, the liquidation committee shall repeat the above mentioned actions and shall reduce the price for the Company's assets each time by ____ % until the Company's property is sold in full.

² Methodology for property valuation during liquidation of the Company may be developed and approved by the General Shareholders' Meeting. Another option is to set out in the Charter the provision which stipulates that property valuation in case of liquidation of the Company must be carried out in accordance with a specific law or regulation, e.g. the Law of Ukraine "On Privatization of Small State-Owned Enterprises (Small Scale Privatization)".
8.22. Cash owned by the Company, including proceeds from the sale of its assets, shall be distributed in the following sequence by priority:
   a) settlements with secured creditors;
   b) settlements with Company employees;
   c) budget and environmental payments;
   d) settlements of claims of unsecured creditors submitted within the established time;
   e) settlements of claims of unsecured creditors submitted after the established time has expired.

The claims of each group shall be satisfied after the claims of each preceding group have been satisfied in full. The claims of each unsecured creditor within a group shall be satisfied proportionately within each group of unsecured creditors.

8.23. Creditors' claims may be satisfied through the transfer of property or other assets of the Company only as a matter of exception and with the approval of the Board of Directors of the Company.

8.24. The liquidation committee shall compile a report on the results of its activities in the form of the liquidation balance and shall submit it for approval by the body which resolved to reorganize the Company.

8.25. The property of the Company which remains after claims of its creditors have been satisfied shall be sold with a subsequent distribution of proceeds among shareholders. Proceeds from the sale shall be distributed every two weeks in proportion to the stake of each shareholder in the Charter capital until all remaining property has been sold in full. The holders of preferred shares shall enjoy the priority right to participate in the distribution of the Company's property in accordance with the procedure set out in clause 5.2. of this Charter.

8.26. The liquidation of the Company shall be deemed complete and the Company shall be considered dissolved from the date that entry of the dissolution has been made in the State register.

9. Amendments to Constituent Documents

9.1. The Company shall notify the registration authority of any amendments and alterations to the Charter within five (5) days from the date of the passing of resolutions of the General Shareholders' Meeting, in order that corresponding changes may be noted in the State register.

9.2. Amendments and alterations to the Charter shall be subject to state registration in accordance with the rules established for state registration of the Company.

9.3. Amendments and alterations to the Charter shall be deemed valid from the date of their state registration.

March, 1999
APPENDIX #2

APPROVED
by the General Shareholders' Meeting
of Open Joint Stock Company
"_________________________

Minute # ___________________
as of "_____" _________ 199__

BYLAW
ON THE RULES OF ORDER
OF THE GENERAL SHAREHOLDERS' MEETING
OF OPEN JOINT STOCK COMPANY
"_________________________

City of ___________________

199__
1 General Provisions

1.1. This bylaw has been developed on the basis of current Ukrainian legislation and the Charter of Open Joint Stock Company "______________" (hereinafter referred to as the Company) and determines the procedure for preparing, convening, and holding the General Shareholders' Meeting of the Company (hereinafter referred to as the Meeting) and the adoption of its resolutions.

1.2. Any issues arising during the preparation, calling, and holding of the Meeting which are not regulated by this bylaw, shall be governed by provisions of current Ukrainian legislation and the Company Charter.

2. Powers of the Meeting

2.1. The Meeting shall be the Company's highest governing body.

2.2. The Meeting, as the highest governing body of the Company, shall have the right to consider and resolve any matters related to the activities of the Company.

2.3. The Meeting shall have the power:

2.3.1. to determine the direction of the Company's activities;
2.3.2. to introduce amendments and changes to the Charter;
2.3.3. to elect and remove members of the Board of Directors;
2.3.4. to elect and remove chairpersons and members of Management and the Audit Committee;
2.3.5. to approve annual results of the Company's activities, including those of its subsidiaries; approve reports and conclusions of the Audit Committee; approve the profit distribution procedure, as well as the term and procedure for the payment of dividends; establish the procedure for coverage of losses;
2.3.6. to adopt decisions on the creation, restructuring and liquidation of the Company's subsidiaries, affiliates and representative offices, as well as approve their Charters and bylaws;
2.3.7. to call officers of the Company's governance and management bodies to financial accountability as set out in Article 23 of the Law of Ukraine "On Companies";
2.3.8. to approve Company bylaws and determine the Company's organizational structure;
2.3.9. to decide on the purchase by the Company of its own shares;
2.3.10. to determine the terms of compensation to be paid to Company officers and officers of subsidiaries, affiliates and representative offices;
2.3.11. to approve agreements (contracts) for amounts which exceed the amount determined in the Company Charter;
2.3.12. to decide on the transfer of the function of keeping the register of holders of registered securities to a registrar;
2.3.13. to approve the terms of the agreement on keeping the register of holders of registered securities;
2.3.14. to appoint a liquidation committee and approve the liquidation balance.

2.4. The Meeting shall be entitled to delegate some of its powers (except those specified in clauses 2.3.3; 2.3.5; 2.3.6; 2.3.12 and 2.3.14 of this bylaw) to the Board of Directors or to Company Management.

3. Calling the Meeting

3.1. The Meeting shall be convened at least once a year.

3.2. An extraordinary meeting may be called in the case of the Company's insolvency, under the circumstances stated in the Company Charter, or in any other case when required by the interests of the Company as a whole.

3.3. The Meeting may be called on the initiative of Management, the Board of Directors, or the Audit Committee. The Meeting shall be called, pursuant to a resolution passed by Management.

3.4. Shareholders who in the aggregate hold more than 10% of the votes, shall be entitled to demand the convening of an Extraordinary Meeting at any time, for any reason. If Management fails to meet this demand within the period of twenty (20) days, the shareholders shall be entitled to call the Meeting by themselves pursuant to the procedure for notifying shareholders set out in clause 3.6. of this bylaw. In this case, the preparation of the Meeting may be carried out by the organizing committee, elected by the shareholders who call the Extraordinary Meeting. The Company shall reimburse shareholders' expenses related to the preparation and holding of the Meeting.

3.5. The Meeting shall be held in the area of the Company's location and the venue shall be indicated in the notice of the Meeting.

3.6. No later than forty-five (45) days before the holding of the Meeting, Management shall publish an announcement in the official bulletin in one of the local periodical editions. The announcement shall specify the Company's name and location, the date, time and venue of the Meeting, the full agenda and the procedure for provision of agenda-related information to shareholders, as well as the address to which proposals concerning the agenda may be submitted.

Simultaneously, the above mentioned notice shall be sent to registered shareholders by registered mail or recorded delivery. Notice of the Meeting shall be considered sent on time if it was delivered or mailed to a shareholder no later than forty-five (45) days before the date of the Meeting. The date indicated by the postal mark on the stamp shall be considered the date of notification. Complaints about delayed Meeting notices caused by the post office will not be taken into account.
3.7. If the agenda of the Meeting includes a proposal to change the amount of the Company's Charter capital, the notice of the Meeting, in addition to the information set out in clause 3.6 of this Bylaw, shall include:

- reasons, methods, and minimum amount of increase or decrease of the Charter capital;
- draft amendments to the Charter, relating to the increase or decrease of the Charter capital;
- information on the number of additionally issued or redeemable shares, as well as their total value;
- information on the new face value of shares;
- rights of shareholders under the additional issue or withdrawal of shares;
- the start and final date of subscription for additionally issued or redeemable shares;
- the procedure for compensation of losses caused to shareholders by the decrease or increase of the Charter capital.

4. Preparation of the Meeting

4.1. The Meeting shall be prepared and called by the Company Management.

4.2. Management may appoint an organizing committee to perform administrative functions related to the preparation and holding of the Meeting.

4.3. When Management resolves to call the Meeting, it shall also fix the date from which the registrar (or the Company) will compile the list of shareholders to be personally notified about the Meeting.

4.4. Management shall notify the shareholders of the Meeting pursuant to the procedure set out in clause 3.6 of this bylaw, after the decision to convene the Meeting and the draft agenda of the Meeting have been adopted. The notice shall be mailed to the addresses of shareholders indicated on the list drawn up by Management, based on the information specified in the shareholders' register as of the date established by Company Management in accordance with clause 4.3. of this bylaw.

4.5. Each shareholder shall be entitled to propose additional issues to be included in the agenda of the Meeting no later than thirty (30) days before the date of the Meeting.

4.6. Management shall consider all submitted proposals of shareholders in a timely fashion at an appropriate meeting and shall approve the final agenda of the Meeting, as agreed upon with the Board of Directors. A proposal shall be considered timely if it was submitted directly to Management, the organizing committee or to the post office to be mailed to the address stated in the notice (clause 3.6.). Proposals for the agenda submitted by shareholders who in the aggregate hold more than 10% of shares may not be rejected by Management.
4.7. Management shall notify shareholders of the final agenda no later than ten (10) days before the date of the Meeting pursuant to the procedure set out in paragraph 1 of clause 3.6. of this bylaw.

4.8. Shareholders shall have the opportunity to review the agenda-related documents before the commencement of the Meeting.

4.9. Management shall prepare a draft resolution for all agenda items. The Board of Directors, the Audit Committee and each shareholder shall be entitled to prepare and submit for consideration its own draft resolution on any item of the agenda.

5. Participation of Shareholders in the Meeting

5.1. All shareholders or their representatives, irrespective of the number and category of shares they hold, shall be entitled to take part in the Meeting. If the right of ownership to shares was transferred after the list of shareholders to be personally notified of the Meeting was compiled (clause 4.3.) but prior to the date of the Meeting, the new holder of shares shall have the right to take part in the Meeting, but shall not be entitled to personal notice of the Meeting, as set out in paragraph 2 of clause 3.6. of this bylaw.

5.2. Members of executive bodies who are not shareholders of the Company may take part in the Meeting in an advisory capacity.

5.3. Shareholders shall take part in the Meeting personally or through their representatives.

5.4. Other shareholders or third parties who are not shareholders of the Company may be representatives of shareholders.

5.5. The representatives of shareholders shall act on the basis of proxies which confirm their powers at the General Shareholders' Meeting. Proxies of natural persons shall be notarized. Proxies of legal entities shall be certified by the signature of the director and the seal of such legal entity. A proxy to take part in and vote at the Meeting may be certified by the registrar or Company Management. A person who issued a proxy shall not be barred from taking part in the Meeting in person.

5.6. Any shareholder may recall or change his or her representative at the Meeting by written notice to the representative and to Company Management.

5.7. Prior to the holding of the Meeting, the registrar (if an agreement with this entity was concluded) or the registration committee appointed by Company Management shall carry out registration of shareholders or their representatives who have arrived at the Meeting, indicate the number of votes held by each participant in the Meeting, and check the powers of representatives of shareholders. Registration of shareholders and their representatives who have arrived at the Meeting shall start at ___ hour and finish 10 minutes before the time of the commencement of the Meeting.
5.8. During registration, each shareholder or representative shall receive ballot papers on each issue of the agenda in accordance with the number of votes held by the shareholder or his representative.

6. Holding the Meeting

6.1. Prior to the beginning of the Meeting, Company Management shall inform the shareholders about the representatives from state authorities, press, and other persons (except persons specified in clause 5.2) who are not shareholders of the Company and are present at the Meeting. If any shareholder objects to their presence at the Meeting, the final decision on this issue shall be made in accordance with the procedure set out in clause 6.5. of this bylaw.

6.2. The Meeting shall be opened with a report on the quorum by the head of the registration committee. If a quorum is not present by the time of the commencement of the Meeting, the Meeting shall not take place, and Management shall appoint a new date for convening it.

6.3. If a quorum is present, the Chief Executive Officer shall open the Meeting and then the Chairman and the Secretary of the Meeting shall be elected, as well as the tabulation committee, to sum up the results of the voting. If required, the Secretariat shall be elected following the election of the Secretary. An editorial committee may be elected to draft or amend resolutions at the meeting.

6.4. The Chairman of the Meeting shall:
   a) preside at the Meeting;
   b) decide on issues relating to the procedure for holding the Meeting (clause 6.5. of this bylaw);
   c) announce the items of the agenda and give the floor to speakers;
   d) give explanations on issues relating to the procedure for holding the Meeting;
   e) announce voting on agenda issues and voting results.

6.5. On the basis of results of a personal survey of shareholders or their representatives, the Chairman of the Meeting shall decide on matters arising during the meeting, which are related to the procedure for holding the Meeting, and which have no direct impact on the adoption of agenda decisions (the order of putting forth agenda items for discussion, announcement of breaks, filming during the Meeting, etc.). The Chairman of the Meeting shall adopt the decision favored by more than 50% of shareholders or their representatives present at the Meeting.

6.6. Members of the tabulation committee shall sum up all voting results of the Meeting. Corresponding minutes on the voting results shall be prepared and submitted to the Chairman of the Meeting.
7. Adoption of Resolutions by the Meeting

7.1. The Meeting shall not be entitled to consider and adopt resolutions on items not included in the agenda of the Meeting in compliance with provisions set out in clauses 4.4.- 4.8. of this bylaw.

7.2. The Meeting shall be qualified to adopt resolutions if attended by shareholders or their representatives who in the aggregate hold more than 60% of votes. A three-quarters (3/4) majority vote of shareholders who take part in the Meeting shall be required to adopt resolutions on the following issues:
   a) amendments to the Company Charter;
   b) reorganization and dissolution of the Company;
   c) creation and termination of subsidiaries, affiliates and representative offices of the Company.

7.3. Resolutions on all other issues shall be adopted if voted for by more than 50% of shareholders or their representatives present at the Meeting.

7.4. A decision of the Meeting shall be carried out by all shareholders, including those who have not participated in the Meeting or those who voted against the adoption of such a decision, as well as by all bodies and officers of the Company.

8. Minutes of the Meeting

8.1. The Secretary and the Secretariat shall keep minutes of the procedure and all resolutions adopted by the Meeting, including voting results on each item of the agenda.

8.2. The Minutes of the Meeting shall be signed by the Chairman and the Secretary of the Meeting.

8.3. The Chairman and the Secretary of the Meeting shall be personally responsible for the reliability of data included in the minutes.

8.4. Certified copies of the minutes of the Meeting and annexes (ballot papers on each issue of the agenda, records of the tabulation and registration committees, etc.) shall be finalized within three (3) working days from the date of the Meeting.

8.5. Any shareholder shall have the right to receive copies of the Minutes (certified extracts therefrom) pursuant to the procedure established by the relevant Company bylaw.

8.6. The minutes of the General Shareholders' Meetings including all annexes thereto shall be kept in the custody of Company Management during the life-time of the Company.

8.7. The Secretary of Company Management shall be personally responsible for custody of the minutes.

March, 1999
APPENDIX #3

APPROVED
by the General Shareholders' Meeting
of Open Joint Stock Company
"__________________________"

Minute # ____________________
as of "______" ____________ 199__.

BYLAW

ON THE BOARD OF DIRECTORS
OF OPEN JOINT STOCK COMPANY
"__________________________"

City of _______________

199__

1.1. This bylaw has been developed on the basis of current Ukrainian legislation and the Charter of Open Joint Stock Company "_________________" (hereinafter referred to as the Company) and determines the status, composition and powers of the Board of Directors, its election procedure, and the order of work of the Board.

1.2. This bylaw shall be approved by the General Shareholders’ Meeting and may be repealed or amended only by the General Shareholders’ Meeting.

2. Composition and Term of Office of Board Members

2.1. The Board of Directors shall be the governance body of the Company which represents the interests of shareholders in the intervals between General Shareholders’ Meetings, as well as oversees the Management of the Company.

2.2. In its activities, the Board of Directors shall be governed by current Ukrainian legislation, the Company Charter, this bylaw, other bylaws and regulations of the Company, and decisions adopted by the General Shareholders' Meeting.

2.3. The Board of Directors shall be elected by the General Shareholders’ Meeting from among the shareholders of the Company for a term of ___ years and shall comprise ___ members. Candidates for election to the Board of Directors shall be nominated in accordance with the procedure set out in Article 3 of this bylaw.

2.4. The General Shareholders’ Meeting shall elect two alternate candidates who may become members of the Board of Directors to replace Board members who may withdraw from the Board, or cannot, for certain reasons, perform their functions. Alternate candidates shall be elected for the term of office of the members of the Board of Directors.

2.5. The alternate candidate who replaces a Board member who has withdrawn shall be appointed a member of the Board by a resolution of the Board of Directors. The Board of Directors shall vote on each candidate and shall appoint the one who receives the most votes of Board members.

2.6. A member of the Board of Directors may not simultaneously be a member of Management or of the Audit Committee.

2.7. The same person may repeatedly be elected to the Board of Directors.

2.8. A legal entity may be elected to the Board of Directors. In such case, the manager of such legal entity shall personally perform the functions of a Board member or shall issue a power of attorney to another officer of the Company which has been elected a member of the Board.
2.9. A member of the Board of Directors may be removed from the Board prior to the expiration of the member's term of office by a resolution of the General Shareholders' Meeting.

3. Nomination Procedure and Election of Board Members

3.1. Shareholders of the Company and Company management and governance bodies shall have the right to nominate candidates for election to the Board of Directors.

3.2. Any shareholder of the Company shall have the right to nominate himself or herself for election to the Board of Directors if such self-nomination has the written support of shareholders who hold in the aggregate not less than 2% of the shares of the Company. Preliminary support of a candidate shall not oblige a shareholder to vote for such candidate during the General Shareholders' Meeting. In the case of self-nomination, a candidate shall submit all documents set out in clause 3.6. of this bylaw.

3.3. Proposals regarding nomination or self nomination of candidates for election to the Board of Directors may be submitted to the body (committee) which convenes the General Shareholders' Meeting to compile the required lists of candidates and to prepare ballot papers, no later than 48 hours before the beginning of the General Shareholders' Meeting.

3.4. Candidates for election to the Board of Directors may only be nominated during the General Shareholders' Meeting if the first list of candidates fails to receive the required number of votes which than leads to the vacancy in the Board of Directors.

3.5. If candidates for election to the Board of Directors are nominated or nominate themselves directly at the General Shareholders' Meeting, the nomination and supporting documentation set out in section 3.6. shall be submitted to the Chairman of the meeting.

3.6. A nomination or self-nomination proposal for election to the Board of Directors shall include the following:

3.6.1. Last name, first name, patronymic (designation) of the shareholder or corporate body nominating the candidate;
3.6.2. Last name, first name, patronymic (designation), date of birth, citizenship, residence address of the shareholder nominated for election;
3.6.3. The following brief information on the nominee:
   a) education and professional background;
   b) work experience, including managerial experience;
   c) last place of employment with indication of position and details of responsibilities;
   d) documents confirming that the nominee holds shares or a share of the Company;
   e) information on existing court restrictions barring the nominee from
engaging in certain activities, with the list of prohibited activities, if any;

f) information on existing outstanding convictions for misappropriation, bribery, and other malfeasance, if any;

g) information on any conflict of interest between the nominee and the Company, including the list of contracts concluded by the Company or its subsidiaries in which the nominee or his relatives had or have a direct or indirect interest, whether tangible or not;

h) in the case of self-nomination, a document certified by Company Management confirming that the nominee has the required support from enough shareholders.

The existence or absence of the facts specified in sub-clauses e), f), and g) shall be confirmed in writing by the candidate nominated for election to the Board of Directors.

3.7. The total number of nominees to the Board of Directors shall exceed the number of Board members established by the Charter or relevant bylaws by at least two (2) persons.

3.8. During the election of the Board of Directors, votes shall be cast separately on each nominee but in a single ballot paper.

3.9. A member of the Board of Directors or an alternate candidate for election to the Board of Directors shall be deemed elected if he or she was voted for by shareholders or their representatives who in the aggregate hold more than 50% of the votes of those present and voting at the meeting or represented by proxy. If the above number of votes was received by a larger number of persons than that established by clause 2.3. of this bylaw, the first ______ persons who received more votes than the other nominees shall be deemed elected to the Board of Directors. The next two (2) nominees shall be deemed elected alternate candidates for election to the Board of Directors.

If the number of nominees who receive the required number of votes is less than that established by clause 2.3. of this bylaw, additional elections of Board members and alternate candidates for election to the Board of Directors shall be held pursuant to the procedure set out by this bylaw. If all nominees fail to receive the required number of votes, new candidates shall be nominated and new elections shall be held pursuant to the procedure set out in this bylaw. Any former nominee shall be eligible for re-nomination.

4. Powers of the Board of Directors

4.1. Within the limits of its authority, the Board of Directors shall be empowered:

4.1.1. to convene the General Shareholders' Meeting if required by the interests of the shareholders and the Company as a whole;
4.1.2. to determine the issues to be submitted for the consideration of the General Shareholders' Meeting;
4.1.3. to consider the reports, conclusions and matters investigated by the Audit Committee;
4.1.4. to submit proposals on the business activities of the Company for the consideration of the General Shareholders' Meeting;
4.1.5. to adopt the agenda of the General Shareholders' Meeting and carry out preliminary consideration of the issues included in the agenda of the Meeting;
4.1.6. to hear current reports of Management on the operations of the Company;
4.1.7. to analyze the activities of Management relating to the management of the Company and the implementation of investment, technical, and pricing policies;
4.1.8. to initiate extraordinary inspections and audits of the Company;
4.1.9. to coordinate preliminary draft agreements (contracts) concluded for an amount which exceeds the equivalent of $__________ US at the official exchange rate of the National Bank of Ukraine as of the date of finalizing such agreements (contracts);
4.1.10. to recommend to the General Shareholders' Meeting the amount and method of changing the Charter capital of the Company;
4.1.11. to recommend to the General Shareholders' Meeting the amount of dividends to be paid;
4.1.12. to submit to the General Shareholders' Meeting recommendations on the advisability of creating or suspending the activities of subsidiaries, affiliates, and representative offices;

The above mentioned issues shall fall under the exclusive jurisdiction of the Board of Directors and may not be delegated to Company Management.

4.2. The Board of Directors shall also perform other functions with regard to the control and supervision of Company Management. While carrying out its duties, the Board of Directors shall be empowered to employ and seek advice of other experts in order to analyze specific issues related to Company operations.

4.3. Certain powers of the General Shareholders' Meeting may be delegated to the Board of Directors by resolution of the General Shareholders' Meeting.

5. Proceedings of the Board of Directors

5.1. The work of the Board of Directors shall be organized in the form of meetings. The meetings of the Board of Directors shall be held when required, but not less than once every three months.

5.2. Meetings of the Board of Directors may be held in the following forms:
   • by gathering the Board members in one place;
   • by holding a meeting through a telephone conference or other means of communication which enable the Board members to hear each other.
5.3. The Chairman of the Board of Directors, the Deputy Chairman, and the Secretary of the Board shall be elected at the first meeting of the Board of Directors from among the Board members.

5.4. The Chairman of the Board of Directors shall:
   a) guide the activities of the Board;
   b) convene the Board meetings;
   c) chair the Board meetings;
   d) perform other functions required for proper organization of Board activities within the limits of Board powers.

5.5. The Deputy Chairman of the Board shall assist the Chairman of the Board in performing his or her functions and fill in during his or her absence.

5.6. The Secretary of the Board shall keep records, maintain minutes and books of records, and execute other documents of the Board of Directors.

5.7. Members of the Board of Directors shall be given no less than five (5) working days written notice of regular meetings of the Board of Directors. Such notice shall specify the date, time and place of the meeting, as well as its agenda.

5.8. Any member of the Board of Directors shall be entitled to propose amendments to the agenda of the meeting no later than one (1) day before the date of the meeting.

5.9. Extraordinary meetings of the Board of Directors shall be convened by the Chairman of the Board of Directors (during his absence by the Deputy Chairman), as well as upon the written request of any two (2) members of the Board of Directors or the Chief Executive Officer. A request to convene an extraordinary Board meeting shall specify the issues to be considered by the Board of Directors.

5.10. An extraordinary meeting of the Board of Directors shall be convened no later than three (3) working days following the submission of a request to the Board of Directors by the persons specified in clause 5.9. of this bylaw.

5.11. Members of the Board of Directors shall receive no less than two (2) working days notice of an extraordinary Board meeting.

5.12. Members of the Board of Directors shall perform their functions in their personal capacity and may not delegate their powers to other Board members or to third parties. All members of the Board of Directors shall perform their functions honestly and in good faith and in the best interests of the Company and may not be governed by any personal interest or the interests of third parties.

5.13. The Board of Directors shall be entitled to pass resolutions if not less than two thirds (2/3) of its members are present. In the case of a lack of a quorum due to withdrawal of a certain member from the Board of Directors, the Board of Directors shall
independently elect a member of the Board of Directors from among the alternate candidates for election to the Board of Directors mentioned in clause 3.9. of this bylaw, who will sit on the Board only until the next General Shareholders' Meeting.

5.14. Each member of the Board of Directors shall have one vote.

5.15. Resolutions of the Board of Directors on all issues shall be adopted by open voting and shall be deemed duly adopted if voted for by more than 50% of Board members present.

5.16. Within its powers, the Board of Directors shall pass resolutions on issues on the agenda, as well as issue orders and instructions on organizational and other matters. Resolutions and orders of the Board of Directors, issued within the limits of its powers, shall be carried out by all executive bodies and the Audit Committee of the Company.

5.17. Minutes of the Board meeting shall be signed by the Chairman of the Board of Directors (or whoever carries out his or her duties at the meeting in the absence of the Chairman) and the Secretary of the Board. If the Board meeting was held in a manner which did not envisage gathering the Board members in one place, the Board members who participated in such meeting shall sign copies of the minutes of the meeting or any other document which reflects their opinion on specific issues of the agenda.

5.18. All minutes of Board meetings shall be drawn up by the Secretary of the Board and added to the minute book which shall be kept in the custody of the Chairman of the Board or kept in the Company archives.

5.19. Any member of the Board of Directors, Management, and any shareholder of the Company shall have access to the minute book and shall have the right to receive certified extracts from the minutes in accordance with the procedure established by Company bylaws.

6. Remuneration of Board Members

6.1. Members of the Board of Directors shall perform their functions in accordance with the terms of their civil agreement.

6.2. Members of the Board of Directors shall be remunerated for fulfillment of their duties. The amount and remuneration procedure shall be established by a resolution of the General Shareholders' Meeting.

6.3. Remuneration to a legal entity which was elected to the Board of Directors shall be deposited in the account of such legal entity.
7. Liability of Board Members

7.1. In accordance with the provisions of current legislation of Ukraine, members of the Board of Directors may incur disciplinary, financial, administrative and criminal liability for violations of current legislation of Ukraine and provisions of the Company Charter, bylaws and procedures.

7.2. The Company shall be entitled to demand from Board members compensation for losses, including unearned profit, resulting from the non-fulfillment or excessive performance of their functions pursuant to the procedure and in the amount set out in current legislation of Ukraine.

07.3. The procedure and reasons for calling Board members to accountability shall be governed by current legislation of Ukraine and the Company Charter and bylaws.

March, 1999
APPENDIX #4

APPROVED
by the General Shareholders' Meeting
of Open Joint Stock Company
"________________________".

Minute # ________________________
as of "____" ____________ 199__.

BYLAW
ON THE MANAGEMENT
OF OPEN JOINT STOCK COMPANY
"________________________".

City of ________________

199__

1.1. This bylaw has been developed on the basis of current Ukrainian legislation and the Charter of Open Joint Stock Company "______________" (hereinafter referred to as the Company) and determines the status, composition and powers of Management, its election procedure, and the order of work of the Company's Management.

1.2. This bylaw shall be approved by the General Shareholders' Meeting and may be amended or repealed only by the General Shareholders' Meeting.

2. Composition and Term of Office of Management

2.1. Management shall be the executive body of the Company and shall manage the day-to-day activities of the Company.

2.2. Management shall be accountable to the General Shareholders' Meeting and the Board of Directors of the Company and shall ensure implementation of their respective decisions.

2.3. In its activities, Management shall be governed by current Ukrainian legislation, the Company Charter, this bylaw, other bylaws and regulations of the Company, and decisions adopted by the General Shareholders' Meeting and the Board of Directors.

2.4. Management shall be elected by the General Shareholders' Meeting both from among the shareholders of the Company and non-shareholders, for a term of ___ years and shall comprise ___ members. The General Shareholders' Meeting may delegate the powers to elect members of Management to the Board of Directors of the Company. Candidates for election to Management shall be nominated in accordance with the procedure set out in Article 3 of this bylaw.

2.5. Management shall comprise:
   a) the Chief Executive Officer (CEO);
   b) the First Deputy CEO;
   c) other Deputies to the CEO;
   d) other Members of Management;
   e) the Secretary of Management.

2.6. In accordance with the decision of the CEO, deputies to the CEO, as well as other members of Management, may be put in charge of various areas of Company operations such as finance, production, legal support, marketing, etc.

2.7. The General Shareholders' Meeting shall elect two (2) alternate candidates who may become members of Management to replace members of Management who may withdraw from their position or cannot, for certain reasons, perform their functions.
Alternate candidates of Management shall be elected for the term of office of members of Management.

2.8. The alternate candidate who replaces the member of Management who has withdrawn, shall be appointed to his or her office by a resolution of the Board of Directors. The Board of Directors shall vote on each candidate and shall appoint the one who receives the most votes of Board members.

2.9. A member of Management may not simultaneously be a member of the Board of Directors or of the Audit Committee.

2.10. The same person may repeatedly be elected a member of Management.

2.11. Any member of Management may be removed from his or her position prior to the expiration of the member's term of office in Management by a resolution of the General Shareholders' Meeting.

3. Nomination Procedure and Election of Management Members

3.1. Shareholders of the Company, the Workers' Collective, and Company management and governance bodies shall have the right to nominate candidates for election to Management.

3.2. Any shareholder of the Company shall have the right to nominate himself or herself for election to Management if such self-nomination has the written support of shareholders who hold in the aggregate not less than 2% of the shares of the Company. Preliminary support of a candidate shall not oblige a shareholder to vote for such candidate during the meeting. In the case of self-nomination, a candidate shall submit all documents set out in clause 3.6. of this bylaw.

3.3. Proposals regarding nomination or self nomination of candidates for election to Management may be submitted to the body (committee) which convenes the General Shareholders' Meeting to compile the required lists of candidates and to prepare ballot papers, no later than 48 hours before the beginning of the General Shareholders' Meeting.

3.4. Candidates for election to Management may only be nominated during the General Shareholders' Meeting if the first list of candidates fails to receive the required number of votes which then leads to the vacancy in Management.

3.5. If candidates for election to Management are nominated or nominate themselves directly at the General Shareholders' Meeting, the nomination and supporting documentation set out in section 3.6 shall be submitted to the Chairman of the meeting.
3.6. A nomination or self nomination proposal for election to Management shall include the following:

3.6.1. Last name, first name, patronymic (designation) of the shareholder or corporate body nominating the candidate;
3.6.2. Last name, first name, patronymic (designation), date of birth, citizenship, residence address of the candidate nominated for election;
3.6.3. The following brief information on the nominee:
   a) education and professional background;
   b) work experience, including managerial experience;
   c) last place of employment with indication of position and details of responsibilities;
   d) information on existing court restrictions barring the nominee from engaging in certain activities, with the list of prohibited activities, if any;
   e) information on existing outstanding convictions for misappropriation, bribery, and other malfeasance, if any;
   f) information on any conflict of interest between the nominee and the Company, including the list of contracts concluded by the Company or its subsidiaries in which the nominee or his relatives had or have a direct or indirect interest, whether tangible or not;
   g) in the case of self-nomination, a document certified by Company Management confirming that the nominee has the required support from enough shareholders.

The existence or absence of facts specified in sub-clauses d), e), and f) shall be confirmed in writing by the candidate nominated for election to Management.

3.7. The total number of nominees to Management shall exceed the number of Management members established by the Charter or relevant bylaws by at least two (2) persons.

3.8. During the election of Management, votes shall be cast separately on each nominee but in a single ballot paper.

3.9. A member of Management or an alternate candidate for election to Management shall be deemed elected if he or she was voted for by shareholders or their representatives who in the aggregate hold more than 50% of the votes of those present and voting at the meeting or represented by proxy. If the above number of votes was received by a higher number of persons than that established by clause 2.4. of this bylaw, the first _____ persons who receive more votes than the other nominees shall be deemed elected to Management. The next two (2) nominees shall be deemed elected alternate candidates for election to Management.

If the number of nominees who receive the required number of votes is less than that established by clause 2.4. of this bylaw, additional elections of Management members and alternate candidates for Management shall be held pursuant to the procedure set out by this bylaw.
BYLAW ON THE MANAGEMENT OF AN OPEN JOINT STOCK COMPANY

If all nominees fail to receive the required number of votes, new candidates shall be nominated and new elections shall be held pursuant to the procedure set out in this bylaw. Any former nominee shall be eligible for re-nomination.

3.10. Labor contracts with members of Management shall be concluded on behalf of the Company by the Chief Executive Officer (CEO). The amount and procedure for compensation of Management members shall be established by a resolution of the General Shareholders' Meeting or the Board of Directors, if such power has been delegated to it.

4. Procedure for Election of the Chief Executive Officer

4.1. The Chief Executive Officer (CEO) shall be elected by the General Shareholders' Meeting for a term of ___ years.

4.2. All nominees for the position of CEO shall be included in the list of nominees which is to be placed at a generally accessible place during the voting.

4.3. Prior to the voting, each nominee shall declare his program of action to the shareholders.

4.4. The CEO shall be elected by secret ballot.

4.5. During the voting, each shareholder or his representative shall write on the ballot paper the surname, first name, and patronymic of the nominee he or she wishes to elect.

4.6. A nominee shall be deemed elected as CEO if he or she was voted for by shareholders or their representatives holding in the aggregate more than 50% of the votes of those present and voting at the meeting or represented by proxy.

4.7. If all nominees fail to receive the required number of votes, a second round of elections shall be held. The two candidates who, during the first round of voting, received more votes than the other nominees shall be admitted to the second round of voting.

Shareholders or their representatives shall vote for one of the two proposed nominees. A nominee shall be deemed elected the CEO if during the second round of voting he or she was voted for by shareholders or their representatives holding in the aggregate more than 50% of the votes of those present and voting at the meeting or represented by proxy.

4.8. The CEO may be removed from office before his or her term expires by a resolution of the General Shareholders' Meeting.
4.9. The Chairman of the General Shareholders' Meeting or another person authorized by the General Shareholders' Meeting shall conclude a contract with the CEO on behalf of the Company. The amount and procedure for compensation of the CEO shall be established by the General Shareholders' Meeting.

5. Powers of the Chief Executive Officer and Members of Management

5.1. The CEO shall govern the activities of Management and shall be empowered:
   a) to represent the Company and to act on behalf of the Company without power of attorney;
   b) to make decisions on the use of the Company's finances and property within the limits established by the Company Charter and resolutions of the General Shareholders' Meeting and the Board of Directors;
   c) to sign proxies, contracts (agreements) and other documents on behalf of the Company;
   d) to assign responsibilities to members of the management team.

5.2. Instructions and orders issued by the CEO within the limits of his or her powers shall be fulfilled by all employees of the Company.

5.3. Management shall resolve all day-to-day business matters relating to Company operations, except those which fall under the jurisdiction of the General Shareholders' Meeting and the Board of Directors.

5.4. Certain powers of the General Shareholders' Meeting may be delegated to Management by resolution of the General Shareholders' Meeting.

5.5. Management shall be empowered:
   a) to approve current plans for Company operations and specific action required for their implementation;
   b) to develop business plans and other programs of financial and economic activities of the Company;
   c) to enter into agreements (contracts) for an amount which does not exceed the equivalent of $________ US at the official exchange rate of the National Bank of Ukraine as of the date of entering into such an agreement;
   d) to approve annual budgets, payrolls, salaries and wages of Company employees, except Company officers;
   e) to organize book-keeping and financial accounting of the Company, and provide the annual report and balance sheet of the Company for the approval of the General Shareholders' Meeting;
   f) to make decisions on long-term loans;
   g) to determine the amount of Company funds to be expended, the source of funds and the procedures for use of Company funds;
   h) to hire and terminate employees of the Company in accordance with
current legislation, maintain personnel records, and determine the incentives and penalties for Company employees;
i) to convene the Annual General Shareholders' Meeting and to approve the agenda of the meeting, as agreed upon with the Board of Directors;
j) to carry out other activities set out in the Company Charter and bylaws relating to Management, or approved by the General Shareholders' Meeting and the Board of Directors of the Company.

Powers set out in sub-clauses a), b), d), and e) shall fall under the exclusive jurisdiction of Management and may not be delegated to the sole discretion of the CEO.

5.6. Management shall draft resolutions for the Board of Directors on the following issues:
a) general development areas of the Company; investment, production, and commercial projects; the amount and procedure for share emission; categories of shares to be issued; terms for bond issues;
b) the organizational structure of the Company, the composition and status of its subdivisions and functional units, the creation and dissolution of subsidiaries, affiliates, and representative offices;
c) the Company's acquisition of its own shares;
d) the Company's inclusion in associations, corporations, and other kinds of integration;
e) other matters to be resolved on the initiative of the General Shareholders' Meeting or the Board of Directors of the Company.

5.7. Resolutions and orders of Management issued within the limits of its powers shall be fulfilled by all employees of the Company.

6. Proceedings of Management

6.1. In its activities, Management shall represent the interests of the Company and its shareholders and shall be governed by the appropriate documents and decisions of the General Shareholders' Meeting and the Board of Directors of the Company.

6.2. Funds for expenditures of Management shall be allocated under the annual budget to be approved by the General Shareholders' Meeting.

6.3. All business correspondence of the Company shall be maintained on behalf of Management and shall be signed by the CEO.

6.4. Management shall hold regular and extraordinary meetings.

6.5. The deputy CEO and the Secretary of Management shall be elected from among members of Management during its first meeting.

6.6. Regular meetings of Management shall be convened by the CEO at least once every month.
6.7. Extraordinary meetings shall be held when required and may be convened by the CEO or Deputy CEO or on the initiative of at least two (2) members of Management.

6.8. Members of Management shall receive not less than five (5) days written notice of the regular meeting of Management.

6.9. The agenda of the meeting shall be provided to all members of Management, together with the notice of the date of the meeting.

6.10 During its meetings, Management shall be entitled to consider issues not included in the agenda if agreed upon by all members of Management.

6.11. Management shall be empowered to make decisions on issues included in the agenda if at least two-thirds (2/3) of its members are present at the meeting. In the case of a lack of quorum due to the withdrawal of certain members from the management team, the Board of Directors may elect an acting member of Management from among the alternate candidates for election to Management mentioned in clause 3.9. of this bylaw, who will act as a member of Management only until the next General Shareholders' Meeting.

A meeting of Management shall be deemed invalid if not attended by the CEO and his Deputy even if they were duly notified of the meeting.

6.12. Members of Management shall perform their functions in their personal capacity. All members of Management shall perform their functions honestly and in good faith, and in the best interests of the Company and may not be governed by any personal interest or the interests of third parties.

6.13. Having confirmed that a quorum exists and having adopted the agenda of the meeting, Management may consider the inclusion of additional issues in the agenda of the meeting in accordance with section 6.10. of this bylaw.

6.14. Decisions on issues which fall under the exclusive jurisdiction of Management (section 5.5. of this bylaw) shall be made by voting. Decisions on any other issues may be made at the discretion of the CEO, provided that certain powers of Management have been delegated to him.

6.15. At his or her discretion, the CEO shall be entitled to submit any issue for a vote by Management.

6.16. Each member of Management shall have one vote.

6.17. Decisions of Management shall be deemed adopted if voted for by more than 50% of the members of the management team present at the meeting.
6.18. Resolution of issues delegated to Management by the General Shareholders’ Meeting shall be subject to specific requirements governing the adoption of such decisions set out in the Company Charter.

6.19. Meetings of Management shall be chaired by the CEO and, in his or her absence, by the Deputy CEO.

6.20. The Secretary of Management shall maintain minutes of the meeting which must be added to the minute book of Management.

6.21. The minutes of meetings of Management shall be signed by the CEO and the Secretary of Management.

6.22. Any member of the Board of Directors, and any shareholder of the Company shall have access to the minute book and shall have the right to receive certified extracts from the minutes in accordance with the procedure established by Company bylaws.

7. Liabilities of Management

7.1. In accordance with provisions of current legislation of Ukraine, members of Management may incur disciplinary, financial, administrative and criminal liability for violations of current legislation of Ukraine and provisions of the Company Charter, bylaws and procedures.

7.2. The Company shall be entitled to demand from members of Management compensation for losses, including unearned profit resulting from the non-fulfillment or excessive performance of their functions pursuant to the procedure and in the amount set out in current legislation of Ukraine.

7.3. The procedure and reasons for calling members of Management to accountability shall be governed by current legislation of Ukraine and the Company Charter and bylaws.

March, 1999
APPENDIX #5

APPROVED
by the General Shareholders' Meeting
of Open Joint Stock Company
"______________________________"
Minute # ______________________
as of "____" ___________ 199__.

BYLAW
ON THE AUDIT COMMITTEE
OF OPEN JOINT STOCK COMPANY
"______________________________"

City of ______________________

199__

1.1. This bylaw has been developed on the basis of current Ukrainian legislation and the Charter of Open Joint Stock Company "___________" (hereinafter referred to as the Company) and shall determine the status, composition and powers of the Audit Committee, its election procedure and the order of work of the members of the Audit Committee.

1.2. This bylaw shall be approved by the General Shareholders’ Meeting and may be amended or repealed only by the General Shareholders’ Meeting.

2. Composition of the Audit Committee and Term of Office of its Members

2.1. The Audit Committee shall be the body which monitors and reports on the financial and business activities of Company Management.

2.2. The Audit Committee shall report to the General Shareholders’ Meeting of the Company and shall organize implementation of the decisions of the General Shareholders' Meeting.

2.3. In its activities, the Audit Committee shall be governed by current Ukrainian legislation, the Company Charter, this bylaw, other bylaws of the Company and the decisions of the General Shareholders’ Meeting.

2.4. The Audit Committee shall be elected by the General Shareholders’ Meeting from among the shareholders of the Company for a term of __ years and shall comprise __ members. Candidates for election to the Audit Committee shall be nominated in accordance with the procedure set out in Article 3 of this bylaw.

2.5. The General Shareholders' Meeting shall elect two alternate candidates who may become members of the Audit Committee to replace Audit Committee members who may withdraw from the Committee or cannot, for certain reasons, perform their functions. Alternate candidates shall be elected for the term of office of the members of the Audit Committee.

2.6. The candidate who replaces the Audit Committee member who has withdrawn shall be appointed a member of the Audit Committee by a resolution of the Audit Committee. The Audit Committee shall vote on each candidate and shall appoint the one who receives the most votes of Audit Committee members.

2.7. Members of the Audit Committee may not simultaneously be members of the Board of Directors or of Management or act as any other officer of the Company.

2.8. The same person may be repeatedly elected to the Audit Committee.

2.9. A legal entity may be elected to the Audit Committee. In such case, the manager of such
elected legal entity shall personally perform the functions of the Audit Committee member or shall issue a power of attorney to another officer of the Company which has been elected the member of the Audit Committee.

2.10. A member of the Audit Committee may be removed from the Audit Committee prior to the expiration of the member's term of office by a resolution of the General Shareholders' Meeting.

3. Nomination Procedure and Election of Audit Committee Members

3.1. Shareholders of the Company and Company management and governance bodies shall have the right to nominate candidates for election to the Audit Committee.

3.2. Any shareholder of the Company shall have the right to nominate himself or herself for election to the Audit Committee if such self-nomination has the written support of shareholders who hold in the aggregate not less than 2% of the shares of the Company. Preliminary support of a candidate shall not oblige a shareholder to vote for this candidate during the meeting. In the case of self-nomination, a candidate shall submit all documents set out in clause 3.6. of this bylaw.

3.3. Proposals regarding nomination or self-nomination of candidates for election to the Audit Committee may be submitted to the body (committee) which convenes the General Shareholders' Meeting to compile the required lists of candidates and to prepare ballot papers, no later than 48 hours before the beginning of the General Shareholders' Meeting.

3.4. Candidates for election to the Audit Committee may only be nominated during the General Shareholders' Meeting if the first list of candidates fails to receive the required number of votes which then leads to the vacancy in the Audit Committee.

3.5. If candidates for election to the Audit Committee are nominated or nominate themselves directly at the General Shareholders' Meeting, the nomination and supporting documentation set out in section 3.6 shall be submitted to the Chairman of the meeting.

3.6. A nomination or proposal for election to the Audit Committee shall include:

3.6.1. Last name, first name, patronymic (designation) of the shareholder or the corporate body nominating the candidate:
3.6.2. Last name, first name, patronymic (designation), date of birth, citizenship, and residence address of the shareholder nominated for election;
3.6.3. Brief information on the nominee:
   a) education and professional background;
   b) work experience, including managerial experience;
   c) last place of employment with indication of position and details of responsibilities;
   d) documents confirming that the nominee holds shares or a share of the Company;
e) information on existing court restrictions barring the nominee from engaging in certain activities, with the list of prohibited activities, if any;
f) information on existing outstanding convictions for misappropriation, bribery and other malfeasance, if any;
g) information on any conflict of interest between the nominee and the Company, including the list of contracts concluded by the Company or its subsidiaries in which the nominee or his relatives had or have a direct or indirect interest, whether tangible or not;
h) in the case of self-nomination, a document certified by Company Management confirming that the nominee has the required support from enough shareholders.

The existence or absence of facts specified in sub-clauses e), f), and g) of this clause shall be confirmed in writing by the candidate nominated for election to the Audit Committee.

3.7. The total number of nominees to the Audit Committee shall exceed the number of Audit Committee members established by the Charter or relevant bylaws by at least two (2) persons.

3.8. During the election of the Audit Committee, votes shall be cast separately on each nominee but in a single ballot paper.

3.9. A member of the Audit Committee or an alternate candidate for election to the Audit Committee shall be deemed elected if he or she was voted for by shareholders or their representatives who hold in the aggregate more than 50% of the votes of those present and voting at the meeting or represented by proxy. If the above number of votes was received by a larger number of persons than that established by clause 2.4. of this bylaw, the first _________ persons who receive more votes than the other nominees shall be deemed elected to the Audit Committee. The next two (2) nominees shall be deemed elected alternate candidates for election to the Audit Committee. If the number of nominees who received the required number of votes is less than that established by clause 2.4. of this bylaw, additional elections of members of the Audit Committee and alternate candidates for election to the Audit Committee shall be held pursuant to the procedure set out in this bylaw. If all nominees fail to receive the required number of votes, new candidates shall be nominated and new elections shall be held pursuant to the procedure set out in this bylaw. Any former nominee may be eligible for re-nomination.

4. Functions, Rights and Obligations of the Audit Committee

4.1. Within the scope of its powers, the Audit Committee shall oversee and audit the financial and business activities of Company Management. In carrying out its functions, the Audit Committee of the Company shall:

a) verify the Company's financial records provided by Management;
b) verify the observance by Company Management during its financial, business and production activities of the norms and rules, established by current Ukrainian legislation, the Company Charter and bylaws, and decisions of the
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General Shareholders' Meeting and the Board of Directors;
c) verify the timeliness and accuracy of payments to suppliers of goods and services, budget payments, calculation and payment of dividends, payment of interest on bonds, as well as the repayment of other obligations;
d) verify the accuracy of the Company's balance sheets and reporting documents for the tax administration and statistics authorities;
e) verify the use of the reserve fund and other funds of the Company;
f) verify the observance by shareholders of the procedure for payment for shares, as specified in the constituent documents;
g) verify the collection of fines and penalties from shareholders for delayed payments for shares;
h) analyze the financial status of the Company, including its solvency, liquidity of its assets and the proportion of its debt to equity; identify ways to improve the economic status of the enterprise and develop recommendations for the governance and management bodies of the Company;
i) analyze the compliance of book-keeping and accounting with relevant regulations.

4.2. The Audit Committee shall be obliged:
a) to oversee the financial and business activities of Management through regular and extraordinary inspections (audits);
b) to notify the General Shareholders' Meeting, the Board of Directors, and Company Management, in a timely way, of audit results in the form of written reports, additional notes and presentations at meetings of the governance and management bodies of the Company;
c) to inform the General Shareholders' Meeting, and in the intervals between such meetings, the Board of Directors, about all deficiencies and violations of Company officers revealed during the inspections;
d) to prepare conclusions on the annual report and balance sheet, without which the General Shareholders' Meeting cannot approve the balance sheet;
e) to demand the convening of an Extraordinary General Shareholders' Meeting if vital interests of the Company are at risk, or violations by Company officials have been revealed.

While fulfilling their duties, members of the Audit Committee shall thoroughly study all documents and materials relating to the subject of inspections. Members of the Audit Committee shall keep commercial confidentiality and shall not disclose confidential information which is made accessible to the members of the Audit Committee, while they are carrying out their functions.

4.3. The Audit Committee shall have the right:
a) to receive from the governance and management bodies of the Company, its departments and officers, all documents and materials which the Audit Committee requires in order to carry out its functions and powers. Such documents shall be submitted to the Audit Committee within two (2) days of its written request;
b) to demand personal explanations from Company employees, including its officers, on issues which fall within the jurisdiction of the Audit Committee;
c) to demand the convening of an Extraordinary General Shareholders' Meeting or the holding of an extraordinary meeting of the Board of Directors of the Company, if vital interests of the Company are at risk, or violations by Company officers have been revealed;
d) to raise issues concerning the activities of the Company's officers for the consideration of the General Shareholders' Meeting or the Board of Directors.

When required, members of the Audit Committee shall take part in meetings of Company Management in an advisory capacity.

5. Proceedings of the Audit Committee

5.1. The work of the Audit Committee shall be organized in the form of inspections. The Company's Audit Committee shall carry out regular and extraordinary inspections.

5.2. The Audit Committee shall carry out regular inspections based on year-end results in order to prepare its conclusions regarding the Company's annual report and balance sheet.

5.3. The Audit Committee shall carry out extraordinary inspections:
   a) pursuant to a resolution of the General Shareholders' Meeting;
   b) pursuant to a resolution of the Board of Directors;
   c) on its own initiative;
   d) in accordance with the request of shareholders who hold in the aggregate more than 10% of the Company's shares.

5.4. The Audit Committee of the Company shall prepare conclusions on the results of its regular and extraordinary inspections, to be signed by the members of the Audit Committee who took part in the inspections. The conclusions are subject to the approval of the Audit Committee.

The conclusions based on year-end results shall include:
   a) confirmation of the reliability of data available in the annual financial reports and other financial documents;
   b) information on any violations of book-keeping procedures and the provision of accounting documents, as established by relevant regulations of Ukraine, as well as on the violation of any other regulations related to the financial and business activities of the Company.

5.5. Conclusions on the results of extraordinary inspections shall be submitted to the Board of Directors of the Company no later than seven (7) working days after the inspection has been completed.

5.6. Conclusions on the results of the annual inspection shall be submitted to the Board of
BYLAW ON THE AUDIT COMMITTEE OF AN OPEN JOINT STOCK COMPANY

Directors of the Company not later than ten (10) days prior to the date of the Annual General Shareholders' Meeting.

Within the same period, the Audit Committee shall submit one copy of the approved conclusions to Company Management which shall submit such conclusions, together with its explanations, to the General Shareholders' Meeting, for its consideration.

5.7. The Audit Committee of the Company shall resolve all issues during its meetings which shall be held when required, but not less than once every three (3) months. The Audit Committee shall also meet immediately before and after each inspection.

Prior to the beginning of each inspection, the Audit Committee shall meet to resolve various organizational issues and approve the plan for carrying out the inspection.

5.8. Meetings of the Audit Committee may be held in the following forms:
   a) by gathering the members of the Audit Committee in one place;
   b) by holding a meeting through a telephone conference or other means of communication which enables the Audit Committee members to hear each other.

5.9. The Chairman of the Audit Committee, the Deputy Chairman and the Secretary of the Committee shall be elected from among the Audit Committee members during the first meeting of the Committee.

5.10. The Chairman of the Audit Committee shall:
   a) guide the activities of the Audit Committee;
   b) convene meetings of the Audit Committee;
   c) chair meetings of the Audit Committee;
   d) within the limits of his or her powers, perform other functions required for proper organization of the activities of the Audit Committee.

5.11. The Deputy Chairman of the Audit Committee shall assist the Chairman of the Audit Committee in performing his or her functions and shall fill in during his or her absence.

5.12. The Secretary of the Audit Committee shall keep records, maintain minutes and book of records, and execute other documents of the Audit Committee.

5.13. Members of the Audit Committee shall be given not less than five (5) days written notice of a regular meeting. Such notice shall specify the date, time and place of the meeting as well as its agenda.

5.14. Any member of the Audit Committee shall have the right to propose amendments or changes to the agenda of the meeting not later than one (1) day before the date of the meeting.

5.15. Extraordinary meetings of the Audit Committee shall be convened by the Chairman of the Audit Committee (during or her his absence, by the Deputy Chairman) on his or her
initiative, as well as upon the written request of any member of the Audit Committee. The request to convene an extraordinary meeting of the Audit Committee shall specify the issues to be considered by the Audit Committee.

5.16. An extraordinary meeting of the Audit Committee shall be called not later than three (3) working days following the submission of a request, to the address of the Audit Committee by the persons specified in clause 5.15. of this Bylaw.

5.17. Members of the Audit Committee shall receive not less than two (2) working days' notice of an extraordinary meeting.

5.18. Members of the Audit Committee shall perform their functions in their personal capacity and may not delegate their powers to other Audit Committee members or to third parties. All members of the Audit Committee shall perform their functions honestly and in good faith and in the best interests of the Company and may not be governed by any personal interest or the interests of third parties.

5.19. The Audit Committee shall have the right to pass resolutions if not less than 50% of its members are in attendance. In the case of a lack of quorum due to vacancies on the Audit Committee, the Board of Directors may elect an acting member of the Audit Committee from among the alternate candidates for election to the Audit Committee mentioned in clause 3.9. of this bylaw, who will continue as a member of the Audit Committee only until the next General Shareholders' Meeting.

5.20. Each member of the Audit Committee shall have one vote.

5.21. Resolutions on all issues shall be passed by open voting and shall be deemed duly passed if voted for by more than 50% of the Audit Committee members present at the meeting.

5.22. Minutes of the Audit Committee shall be signed by the Chairman of the Audit Committee (or the person who fulfills his or her duties) and the Secretary of the Audit Committee. If the meeting of the Audit Committee was held in a manner which does not envisage gathering members of the Audit Committee in one place, the members who participated in such a meeting shall sign copies of the minutes of the meeting or any other document which reflects their opinion on specific issues of the agenda.

5.23. All minutes of the Audit Committee shall be drawn up by the Secretary of the Audit Committee and added to the minute book, which shall be kept in the custody of the Chairman of the Audit Committee or in the Company archives.

5.24. Any member of the Audit Committee and the Board of Directors, and the shareholders of the Company shall have access to the minute book and shall have the right to receive certified extracts from the minutes in accordance with the procedure established by Company bylaws.
6. Compensation of Audit Committee Members

6.1. Members of the Audit Committee shall perform their functions in accordance with the terms of their civil agreement.

6.2. Members of the Audit Committee shall be remunerated for fulfillment of their duties. The amount and remuneration procedure shall be established by a resolution of the General Shareholders' Meeting.

6.3. Remuneration to a legal entity which was elected to the Audit Committee shall be deposited to the relevant account of such legal entity.

7. Liability of Audit Committee Members

7.1. In accordance with the provisions of current legislation of Ukraine, members of the Audit Committee may incur disciplinary, financial, administrative and criminal liability for violations of current legislation of Ukraine and provisions of the Company Charter, bylaws and procedures.

7.2. The Company shall be entitled to demand from members of the Audit Committee compensation for losses, including unearned profit resulting from the non-fulfillment or excessive performance of their functions, pursuant to the procedure and in the amount set out in current legislation of Ukraine.

7.3. The procedure and reasons for calling Audit Committee members to accountability shall be governed by current legislation of Ukraine and the Company Charter and bylaws.

March, 1999
### SCHEDULE OF PREPARATION FOR THE GENERAL SHAREHOLDERS' MEETING

<table>
<thead>
<tr>
<th>TERM</th>
<th>DESCRIPTION</th>
<th>DECISION-MAKER</th>
<th>PERSON RESPONSIBLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>No later than 60 days before the General Shareholders' Meeting (3 days before the meeting of Management)</td>
<td>Notice to the members of Management of the meeting of Management which specifies time, place and agenda of the meeting. The agenda must include the following issues: on the calling of the General Shareholders' Meeting, appointment of the Organizing Committee for convening of the General Shareholders' Meeting, appointment of the Registration Committee, approval of expense budget for the General Shareholders' Meeting, date of drawing up of the list of shareholders.</td>
<td>The Chief Executive Officer (CEO)</td>
<td>Secretary of Management</td>
</tr>
<tr>
<td>No later than 56 days before the General Shareholders' Meeting</td>
<td>Meeting of Management: 1. Adoption of the decision to hold the General Shareholders' Meeting 2. Approval of the agenda of the General Shareholders' Meeting. While drafting the agenda, every issue to be presented to the General Shareholders' Meeting has to be precisely worded. It is not allowed to put on the agenda a general item such as &quot;Miscellaneous&quot; which would limit the shareholders' right to become familiar with all the documents relating to the agenda. 3. Approval of expense budget for the General Shareholders' Meeting. 4. Appointment of the Organizing Committee on preparation of the General Shareholders' Meeting. 5. Appointment of the Registration Committee. The basic functions of the Registration Committee are: registration of shareholders and their representatives who take part in the Meeting, verification of shareholders' proxies and determining the presence or absence of a quorum.</td>
<td>CEO</td>
<td></td>
</tr>
<tr>
<td>No later than 47-56 days before the General Shareholders' Meeting</td>
<td>Preparation of documents relating to the agenda. Such documents include: draft resolutions of the General Shareholders' Meeting, Company bylaws, etc.</td>
<td>Management</td>
<td>Organizing Committee on preparation of the General Shareholders' Meeting</td>
</tr>
<tr>
<td>No later than 53 days before the Meeting</td>
<td>Notification of the Registrar (if any) of the decision to convene the General Shareholders' Meeting and request the list of shareholders.</td>
<td>Management</td>
<td>Secretary of Management</td>
</tr>
<tr>
<td>No later than 50 days before the General Shareholders' Meeting</td>
<td>Drawing up the list of Shareholders. Such list is prepared for the purpose of notifying shareholders of the calling of the Meeting. It is drawn up as of a specified date and provides the necessary information, such as: surname, name and patronymic of a shareholder or name of a legal entity and place of residence of a shareholder or address of a legal entity.</td>
<td>Registrar or Management (if the Register is kept by the Company)</td>
<td></td>
</tr>
<tr>
<td>No later than 46-48 days before the General Shareholders' Meeting</td>
<td>Printing out of the appropriate number of documents and forms. E.g. Notice of the General Shareholders' Meeting, etc.</td>
<td>Management</td>
<td>Organizing Committee</td>
</tr>
<tr>
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</tr>
<tr>
<td>No later than 45 days before the General Shareholders' Meeting</td>
<td>Notice to the shareholders of the date, place, time and agenda of the General Shareholders' Meeting by appropriate announcement in press (local press and an official publication of Verkhovna Rada, the Cabinet of Ministers or the Securities and Stock Market State Commission). The announcement should specify the place where shareholders can study the documents relating to the agenda. Shareholders must be given the opportunity to study the documents relating to the agenda before the General Shareholders' Meeting.</td>
<td>Management</td>
<td>Secretary of Management</td>
</tr>
<tr>
<td>No later than 45 days before the General Shareholders' Meeting</td>
<td>Personal notice to shareholders who hold registered securities.</td>
<td>Management</td>
<td>Secretary of Management</td>
</tr>
<tr>
<td>No later than 30 days before the General Shareholders' Meeting</td>
<td>Proposals of shareholders for the agenda of the Meeting. The proposals are collected and systematized by the Organizing Committee and submitted to Management.</td>
<td>Shareholders or groups of shareholders</td>
<td>Management</td>
</tr>
<tr>
<td>No later than 18 days before the General Shareholders' Meeting</td>
<td>Notice to the members of Management of the extraordinary meeting of Management (must specify the date, place, time and agenda of the meeting).</td>
<td>CEO</td>
<td>Secretary of Management</td>
</tr>
<tr>
<td>No later than 15 days before the Meeting</td>
<td>Meeting of Management. This meeting has to analyze the information submitted by the Organizing Committee and consider shareholders' proposals and demands of shareholders who in the aggregate hold more than ten (10%) percent of the votes. The final version of the agenda is to be approved after debate.</td>
<td>CEO</td>
<td></td>
</tr>
<tr>
<td>No later than 10 days before the Meeting</td>
<td>Notice to shareholders of changes to the agenda. The method of giving notice is usually spelled out by the Charter: either an announcement is made in the press or the appropriate letters are sent.</td>
<td>Management</td>
<td>Organizing Committee</td>
</tr>
<tr>
<td>No later than 5 days before the Meeting</td>
<td>Printing of the appropriate number of documents and forms. At this stage such documents include: ballot papers and documents relating to the agenda of the General Shareholders' Meeting.</td>
<td>Management</td>
<td>Organizing Committee</td>
</tr>
<tr>
<td>No later than 3 days before the Meeting</td>
<td>Preparation of premises for the Meeting.</td>
<td>Management</td>
<td>Organizing Committee</td>
</tr>
<tr>
<td>On the day of holding the Meeting</td>
<td>Drawing up the Register of Shareholders. At this stage the Register of Shareholders is drawn up for the purpose of registering shareholders and their representatives who take part in the Meeting. The Register is signed by the Chairman and the Secretary of the General Shareholders' Meeting.</td>
<td>Management</td>
<td>Registrar or Management</td>
</tr>
</tbody>
</table>
THE PROCEDURE FOR HOLDING THE GENERAL SHAREHOLDERS' MEETING

<table>
<thead>
<tr>
<th>ACTION</th>
<th>PERSON RESPONSIBLE</th>
<th>COMMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Registration of shareholders who take part in the</td>
<td>Management (Registration Committee appointed by</td>
<td>The Registration Committee is appointed at the Management meeting. Its basic function is to register shareholders and their representatives who take part in the Meeting and to check copies of documents which certify their right to take part in the Meeting (share certificates, extracts from the Shareholders' Register, proxies for representatives of shareholders) and documents identifying shareholders. All persons who are shareholders on the day of the General Shareholders' Meeting are entitled to take part in the Meeting. The Registration Committee draws up the protocol containing information on the presence or absence of a quorum. The protocol is submitted to the person who opens the Meeting (the list of persons who open the Meeting is spelled out in the Rules of Order of the General Shareholders' Meeting). If registration is carried out by an independent registrar, the Company must conclude an appropriate agreement with him to perform all the above mentioned steps. Shareholders who in the aggregate hold more than 10% of votes and/or the Securities and Stock Market State Commission may appoint their representatives to supervise the registration of shareholders.</td>
</tr>
<tr>
<td>General Shareholders' Meeting</td>
<td>Registrar)</td>
<td></td>
</tr>
<tr>
<td>Statement of presence or absence of a quorum,</td>
<td>Chief Executive Officer or another person presiding at</td>
<td>Based on the protocol submitted by the Registration Committee, the person who opens the Meeting announces the presence or absence of a quorum. In the absence of a quorum, the Meeting may not be held and a new date for the Meeting has to be fixed. If a new date for the Meeting is fixed, the general procedure for convening the Meeting has to be followed, pursuant to current legislation of Ukraine. If a quorum is present, the Meeting is deemed to be valid and a person appointed in accordance with the Rules of Order mentioned above opens the Meeting.</td>
</tr>
<tr>
<td>opening of the General Shareholders' Meeting</td>
<td>the Meeting</td>
<td></td>
</tr>
<tr>
<td>Election of working bodies of the Meeting</td>
<td>General Shareholders' Meeting</td>
<td>The person who opens the Meeting raises the issue of electing the working bodies of the Meeting. These include: Chairman of the Meeting (puts the issues up for consideration and voting), Secretary (Secretariat) of the Meeting (keeps minutes of the General Shareholders' Meeting) and Tabulation Committee (counts votes during the voting).</td>
</tr>
</tbody>
</table>
| Consideration of issues by the General Shareholders' Meeting | General Shareholders' Meeting | Consideration of issues shall include the following:
1. Putting the issue up for consideration;
2. Discussion of the issue by shareholders;
3. Voting. The voting is based on the "one share - one vote" principle. It is recommended to vote by filling in prepared ballot papers.
   Decisions on issues not included in the agenda are prohibited. |
| Counting votes and announcement of voting results | Tabulation Committee/Chairman of the Meeting | Votes are counted and the results of voting are summed up by the Tabulation Committee. The Tabulation Committee prepares the Protocol on the results of voting to be signed by the Chairman and the Secretary of the Tabulation Committee. The Protocol is submitted to the Chairman of the Meeting who announces the results of voting. |
| Recording in the minutes the results of consideration of issues by the General Shareholders' Meeting. | Secretariat | The course of the General Shareholders' Meeting and the decisions adopted are entered into the minutes of the General Shareholders' Meeting. The minutes are filed in the Minute Book and kept together with other documents. The minutes shall include all the issues discussed and decisions made. The minutes are signed by the Chairman and the Secretary of the Meeting and must be submitted to Management within 3 working days after the end of the Meeting. Shareholders are entitled at any time to familiarize themselves with the minutes. At their request, the Company may present duly certified extracts from the minutes. The decisions of the General Shareholders' Meeting are binding on all shareholders, both present and absent from the Meeting, as well as those who voted against or abstained from voting. |
| Closing the Meeting | Chairman of the Meeting | After consideration and voting on all issues of the agenda, the Meeting is closed by the Chairman. |
AGENDA
OF THE FIRST ANNUAL GENERAL SHAREHOLDERS' MEETING
OF OPEN JOINT-STOCK COMPANY

2. Report of the Chief Executive Officer on Company operations during the period under review.
3. Report of the Chairman of the Board of Directors on activities during the period under review.
4. Report of the Chairman of the Audit Committee on activities during the period under review, conclusions of the Audit Committee on the Annual Report and Balance Sheet of the Company, report of the Chief Accountant of the Company.
5. Approval of the Annual Report and Balance Sheet.
6. Election of the Board of Directors.
7. Election of the Chief Executive Officer and members of Management.
8. Election of the Audit Committee.
9. Amendments and changes to the Company Charter.
10. Procedure and terms for distribution of Company profits earned during the period under review, procedure for repayment of Company debts.
11. Approval of a development strategy and major guidelines for Company operations.
12. Transfer to the Registrar of powers to keep the register of holders of registered securities and approval of the terms of the agreement on keeping the register of holders of registered securities.
13. Terms of compensation for Company officers.
14. Approval of agreements for amounts exceeding the amount fixed in the Company Charter.
15. Approval of Company bylaws.
16. Appointment of the independent auditor and approval of the terms of compensation for his services.
APPENDIX #9

NOTICE
OF THE CONVENING OF THE GENERAL SHAREHOLDERS' MEETING
OF OPEN JOINT-STOCK COMPANY
"__________________________"

Dear Shareholder:

We hereby inform you that, in compliance with the resolution of Management (Minute #__ as of ______ 199__) the first General Shareholders' Meeting of Open Joint Stock Company "__________________" will be held at ___ on ______ 199__ at the following address: ________________________________.

AGENDA

2. Report of the Chief Executive Officer on Company operations during the period under review.
3. Report of the Chairman of the Board of Directors on activities during the period under review.
4. Report of the Chairman of the Audit Committee on activities during the period under review, conclusions of the Audit Committee on the Annual Report and Balance Sheet of the Company, report of the Chief Accountant of the Company.
5. Approval of the Annual Report and Balance Sheet.
6. Election of the Board of Directors.
7. Election of the Chief Executive Officer and members of Management.
8. Election of the Audit Committee.
9. Amendments and changes to the Company Charter.
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13. Terms of compensation for Company officers.
14. Approval of agreements for amounts exceeding the amount fixed in the Company Charter.
15. Approval of Company bylaws.
16. Appointment of the independent auditor and approval of the terms of compensation for his services.

We hereby remind you that, in accordance with Article 43 of the Law of Ukraine "On Companies" you are entitled to submit your proposals for agenda items no later than 30 days before the date of the meeting.

Management requests that you take part in the meeting, either in person or by issuing an appropriate proxy to any person at your discretion.
In order to be entitled to take part in and vote at the meeting, you or your fiduciary have to register. The registration of participants of the meeting will be held at the site of the meeting. The registration will start at _____ on ___________ 199_ and finish at ____ (10 minutes before the opening of the meeting).

Yours truly,

Chief Executive Officer

______________________________

______________ 199_
PROXY #1

City (village) ____________________________

(day, month and year in words)

I, ____________________________

(surname, first name and patronymic)

resident of __________________________________________________________

(passport series ___ # issued on 199_

by ____________________________)

(name of issuing authority)

hereby authorize ____________________________

(surname, first name and patronymic)

resident of __________________________________________________________

(passport series ___ # issued on 199_

by ____________________________)

(name of issuing authority)

to be my representative in all companies, institutions and organizations irrespective of
their form of ownership, including government authorities and governance bodies, on
issues relating to the management of a block of shares in Joint-Stock Company"______" belonging to me by right of ownership.

In connection therewith I vest him with the following rights:

1. To take part in the General Shareholders' Meetings of the above Joint Stock
   Company.
2. To submit on my behalf letters, statements, petitions and other documents.
3. To sign on my behalf letters, statements, demands, petitions, protocols, appeals and
   other documents.
4. To obtain information, documents and explanations from governance bodies and other
   bodies of the Company, shareholders, enterprises, institutions and organizations
   irrespective of their form of ownership.
5. To vote on my behalf at his own discretion on all the issues on the agenda of the
   General Shareholders' Meeting, as well as on other issues put to the vote.
6. To take all other steps relating to the management of my corporate rights.

This proxy is issued without the right of reassignment and shall be valid for _____ years,
i.e. until ______________________________.

______________________
(Signature)
PROXY #2

City (village)______________________________,
(day, month and year in words)

I, ________________________________,
(surname, first name and patronymic)
resident of __________________________________________________________ _,
(passport series _____ #_________ issued on ______________ 199_ by ____________________________________________ ),
(name of issuing authority)

hereby authorize ________________________________,
(surname, first name and patronymic)
resident of __________________________________________________________ __,
(passport series _____ #_________ issued on ______________ 199_ by ____________________________________________ )
(name of issuing authority)

to be my representative at the General Shareholders’ Meeting of the Joint-Stock Company ________________________________ which is scheduled for ______________ 199_.

In connection therewith I vest him with the following rights:
1. To present on my behalf letters, statements, petitions and other documents.
2. To sign on my behalf letters, statements, demands, petitions, protocols, appeals and other documents.
3. To obtain information, documents and explanations from governance bodies of the Joint Stock Company, other bodies of the Joint Stock Company and shareholders.
4. To vote on my behalf at his own discretion on all the issues included in the agenda of the General Shareholders’ Meeting, as well as on other issues put to the vote.
5. To take all other steps relating to representation of my interests at the General Shareholders’ Meeting.

This proxy is issued without the right of reassignment and shall be valid for _____ years, i.e. until ________________________________ .

__________________________
(Signature)
PROXY #3

City (village) _______________________,
(day, month and year in words)

I, ________________________________,
(surname, first name and patronymic)
resident of _______________________________________,
(passport series # _______ issued on ______________ 199_
by ____________________________,
(name of issuing authority)
hereby authorize ____________________________,
(surname, first name and patronymic)
resident of _______________________________________,
(passport series # _______ issued on ______________ 199_
by ____________________________,
(name of issuing authority)
to be my representative at the General Shareholders' Meeting of the Joint Stock
Company ____________________________ which is
scheduled for ________________ 199_.

In connection therewith I vest him with the following rights:
1. To present on my behalf letters, statements, petitions and other documents.
2. To sign on my behalf letters, statements, demands, petitions, protocols, appeals and
other documents.
3. To obtain documents and explanations from governance bodies of the Joint Stock
Company, other bodies of the Joint Stock Company and shareholders.
4. To vote on my behalf on all the issues included in the agenda of the General
Shareholders' Meeting, as well as other issues put to the vote in the following way:
4.1. On issue #1. " __________________": __________________;
4.2. On issue #2. " __________________": __________________;
4.3. On issue #3. " __________________": __________________.
5. To take all other steps relating to representation of my interests at the General
Shareholders' Meeting.

This proxy is issued without the right of reassignment and shall be valid for _____ years,
i.e. until ____________________________________.

__________________________
(Signature)
APPENDIX #13

MINUTES #____
OF THE MEETING OF THE BOARD OF DIRECTORS
OF JOINT-STOCK COMPANY
"___________________________"

_________________________ 199__

Members of the Board of Directors Present:
1. ________________________, Chairman;
2. ________________________, Secretary;
3. ________________________;
4. ________________________;
5. ________________________.

Members of the Board of Directors Absent:
1. ________________________;
2. ________________________.

Invited:
1. ________________________, Chief Executive Officer;
2. ________________________, Chief Accountant.

In accordance with the Charter and the Bylaw on the Board of Directors, a quorum for holding the meeting is present.

Agenda:

1. Approval of the Report of the Chief Executive Officer on the results of Company operations in the second quarter of 199__;
2. Approval of the Report of the Chief Accountant on financial and commercial activities of the Company in the second quarter of 199__.

On issue #1 of the agenda the meeting listened to:

1. The Chief Executive Officer on Company operations in the second quarter of 199__.
2. ________________________ who proposed to approve the Report of the Chief Executive Officer without amendments.

Voting results: yes ______; no ______.
The resolution is passed.

On issue #2 of the agenda the meeting listened to:

1. The Chief Accountant on financial and commercial activities of the Company in the second quarter of 199__.
2. __________ who proposed to approve the Report of the Chief Accountant with the following amendments:
   2.1. to exclude Section 2;
   2.2. Section 3 to be supplemented with the information on fulfillment of contracts entered into by Management in the second quarter of 199__.

Voting results: yes ______; no ______.
The resolution is passed.

Final Resolution:

1. To approve the Report of the Chief Executive Officer on the results of Company operations in the second quarter of 199__;
2. To approve the Report of the Chief Accountant on financial and commercial activities of the Company in the second quarter of 199__ with the following amendments:
   2.1. to exclude Section 2;
   2.2. Section 3 to be supplemented with the information on fulfillment of contracts entered into by the Management in the second quarter of 199__.
3. The Chief Accountant shall prepare and submit for signing to the Chairman of the Board of Directors the amended and completed Report on financial and commercial activities on or before __________ 199__.
4. The Chief Executive Officer shall draw up the Report on the results of commercial activities on or before __________ 199__ for subsequent presentation to shareholders.

Chairman of the Board of Directors: ____________________________ (__________)

Secretary of the Board of Directors: ____________________________ (__________)

(It is recommended to include in the minutes a section entitled "Signatures of persons present" wherein signatures of all the persons present at the meeting may be written with the exception of the Chairman and the Secretary of the Board of Directors. The availability of the signatures of the persons present: 1) confirms their presence at the meeting; 2) confirms their acceptance of the contents of the minutes; 3) whenever the Board of Directors passes a resolution concerning the invited persons, the Board of Directors will not be bound to notify them further in writing because the signatures of the invited persons in the minutes confirm that they are aware of the resolutions concerning them.)

Signatures of the persons present:  
____________________________________
____________________________________
____________________________________
____________________________________
____________________________________
____________________________________
Ballot paper. General Shareholders' Meeting of JSC "__________", city ______, 199_

<table>
<thead>
<tr>
<th>Issue of the agenda</th>
<th>Approval of Company bylaws</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td># ___</td>
<td>_________ votes</td>
<td></td>
</tr>
</tbody>
</table>

name, middle name, surname of shareholder ____________

<table>
<thead>
<tr>
<th>Name of Company bylaw</th>
<th>For</th>
<th>Against</th>
</tr>
</thead>
<tbody>
<tr>
<td>1)</td>
<td></td>
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<td>2)</td>
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Cross with "X" the decision of your choice

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Ballot paper. General Shareholders' Meeting of JSC "______________", city ________, 199__

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