

DRAFT

MERGER AGREEMENT

INTERFOOD SHAREHOLDING COMPANY

as the Merged Party

and

AVAFOOD LIMITED COMPANY

as the Merging Party

Date _____ 20__

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MERGER AGREEMENT

This MERGER AGREEMENT is made and signed on _____, by and between:

1. MERGED COMPANY

- Company name : **INTERFOOD SHAREHOLDING COMPANY**
- Enterprise registration certificate : No. 3600245631 first issuance on 16 November 1991 and 5th registration for amendment on 5 July 2019, issued by Dong Nai Province Department of Planning and Investment
- Head office address : Lot 13, Tam Phuoc Industrial Zone, Tam Phuoc Ward, Bien Hoa City, Dong Nai Province, Vietnam
- Represented by : Mr. _____
Position: _____

(hereinafter referred to as “**Merged Company**” or “**Interfood**”)

2. MERGING COMPANY

- Company name : **AVAFOOD LIMITED COMPANY**
- Enterprise registration certificate : No. 3600563391 first issuance on 19 July 2002 and 4th registration for amendment on 5 July 2019 issued by Dong Nai Province Department of Planning and Investment 2019
- Head office address : Lot 13, Tam Phuoc Industrial Zone, Tam Phuoc Ward, Bien Hoa City, Dong Nai Province, Vietnam
- Represented by : Mr. _____
Position: _____

(hereinafter referred to as “**Merging Company**” or “**Avafood**”)

(The Merged Company and the Merging Company are hereinafter referred to individually as “**Party**” and collectively as “**Parties**”).

WHEREAS:

- A. Interfood and Avafood have been operating in the same business of beverage manufacturing in Vietnam.
- B. Interfood is concurrently the sole owner of Avafood.
- C. In order to enhance the efficiency of business operation and management, Interfood has decided (i) that the Merger (as defined in Article 2.1 herein) is necessary, appropriate, and for the best interests of Interfood, and (ii) to approve this Agreement and other transactions as agreed in this Agreement (collectively referred to as “**Transactions**”).

NOW, THEREFORE, Interfood and Avafood have discussed and unanimously agreed to enter into this Agreement with the following terms and conditions:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement, the following words and terms, except otherwise specified in each specific provision, shall be construed as follows:

1.1.1 **Agreement** means this merger agreement and any other amendments to this agreement;

1.1.2 **Assets** mean all the investment projects, properties, rights, privileges, business rights, licenses, commercial contracts and also all debts, liabilities, obligations and responsibilities of each Party;

1.1.3 **DIZA** means Dong Nai Industrial Zone Authority

1.1.4 **Effective Date** means the date on which this Agreement takes effect as defined in Article 3.2 of this Agreement;

1.1.5 **Employees** means all the employees of Avafood as defined in Article 5.1 of this Agreement;

1.1.6 **ERC** means Enterprise Registration Certificate;

1.1.7 **IRC** means Investment Registration Certificate;

1.1.8 **Licensing Authority** means the competent authorities that have rights to issue the Enterprise Registration Certificate for the companies and the Investment Registration Certificate for the investment projects in accordance with the laws of Vietnam;

1.1.9 **Merger** means the merger of Avafood into Interfood as defined in Article 2.1 of this Agreement;

1.1.10 **Signing Date** means the date on which this Agreement is signed by the authorized representatives of the Parties and stated at the beginning of this Agreement;

1.1.11 **Transition Period** means the period from the Signing Date to the Effective Date as defined in Article 9.1 of this Agreement;

1.1.12 **USD** or **United States Dollar** means the lawful currency of the United States of America;

1.1.13 **Vietnam** means the Socialist Republic of Vietnam; and

1.1.14 **VND** or **Vietnamese Dongs** means the lawful currency of Vietnam.

1.2 Interpretation

1.2.1 The headings in this Agreement are for reference purpose only and will not affect the interpretation of the Agreement.

1.2.2 Unless the context otherwise requires, references in this Agreement to:

- (a) the singular will include the plural and vice versa;

- (b) periods of time are to the Gregorian Calendar;
- (c) legislation or those provisions as amended, extended, consolidated, re-enacted or replaced from time to time (whether before or after the signing date of this Agreement) and to any decrees, regulations or other guiding provisions made thereunder; and
- (d) the expressions of “include” or “including” will be construed without limitation.

2. THE MERGER

2.1 On the basis of complying with the terms and conditions of this Agreement and the prevailing laws of Vietnam, Avafood will be merged into Interfood by way of transferring all the Assets, Employees, lawful rights, obligations and interests of Avafood to Interfood, simultaneously, Avafood will terminate its existence. Interfood will continue its operation on its own behalf, concurrently inheriting all the Assets, Employees, lawful rights, obligations and interest of Avafood (the “**Merger**”). This Merger shall neither generate incomes for any Party nor incur any sale of shares, capital contribution between the Parties or any of their shareholders, consequently, the Merger shall not incur any tax obligation due to the capital transfer for any Party.

2.2 After the Merger, the information about Interfood shall be as follows:

(a) Company name:

After the Merger, the name of Interfood shall remain unchanged, specifically:

- Name of the company : CÔNG TY CỔ PHẦN THỰC PHẨM QUỐC TẾ
in Vietnamese
- Name of the company : INTERFOOD SHAREHOLDING COMPANY
in English
- Abbreviation name : INTERFOOD

(b) Form of company

After the Merger, the form of Interfood shall remain unchanged, which is a joint stock company.

(c) Head office:

After the Merger, Interfood's head office shall remain unchanged, which is Lot 13, Tam Phuoc Industrial Zone, Tam Phuoc Ward, Bien Hoa City, Dong Nai Province, Vietnam.

(d) Legal Representative:

After the Merger, Mr. Yutaka Ogami, position General Director as shall continue to be the legal representative of Interfood.

(e) Charter capital:

After the Merger, the charter capital of Interfood shall remain unchanged, which is **VND871,409,920,000** (*eight hundred seventy one billion four hundred nine million nine hundred twenty thousand Vietnamese Dongs*).

(f) Business lines

All business lines of Avafood, which do not coincide with those of Interfood, will be additionally registered to business lines of Interfood. Accordingly, business lines of Interfood after the Merger shall be as follows:

No.	Business lines	Code
1.	Processing, preserving fisheries and fishery products <i>Details: Processing fishery products into canned, dried, frozen, salted, and pickled products</i>	1020
2.	Processing and preserving fruit and vegetables <i>Details: Processing agricultural products into canned, dried, frozen, salted, and pickled products</i>	1030
3.	Manufacturing bakery products <i>Details: Manufacturing some kinds of cakes</i>	1071
4.	Manufacturing processed dishes and food <i>Details: Manufacturing some kinds of snacks</i>	1075
5.	Manufacturing non-alcoholic beverages, mineral waters <i>Details: Processing non-carbonated and carbonated juices, processing non-carbonated soft drinks and non-alcoholic or low-alcohol beverages (less than 10%); manufacturing purified water</i>	1104 (main)
6.	Manufacturing wooden packaging <i>Details: Manufacturing packaging used for food and beverages</i>	1623
7.	Manufacturing corrugated paper, corrugated paperboard, packaging from paper and paperboard <i>Details: Manufacturing packaging used for food and beverages</i>	1702
8.	Manufacturing plastics products <i>Details: Manufacturing packaging used for food and beverages</i>	2220
9.	Manufacturing other unclassified fabricated metal products <i>Details: Manufacturing packaging used for</i>	2599

	<i>food and beverages</i>	
10.	Manufacturing dairy products	1050
11.	Implementing rights of import and export for products complying with business and production objectives of the Company in accordance with the laws	Business line not yet matched with the Vietnam System of Economic Code

(g) The investment project

After the Merger, the investment project of Avafood under IRC No. 1052118511 first issuance on 19 July 2002 by DIZA will be terminated. Therefore, after the Merger, the investment project of Interfood shall remain unchanged, specifically:

No.	The Investment project	Location for implementation of the project
1.	The project of establishing Interfood Shareholding Company under IRC No. 6525867086 first issuance on 16 November 1991 issued by DIZA	Lot 13, Tam Phuoc Industrial Zone, Tam Phuoc Ward, Bien Hoa City, Dong Nai Province, Vietnam

3. MERGER CONDITIONS

3.1 The Merger must satisfy all the following conditions:

- (a) The Merger is approved by the Parties and the owners of the Parties; and
- (b) The Merger must be fully compliant with the laws of Vietnam and is approved by the Licensing Authority with regards to the merger application dossier.

3.2 The Merger shall be immediately effective from the date on which the Licensing Authority issues ERC under the name of Interfood recording this Merger (the “**Effective Date**”).

4. PROCEDURES OF THE MERGER

4.1 Within fifteen (15) days from the Signing Date the Signing Date, the Parties will implement the notification, registration for the Merger with the Licensing Authority, other relevant competent authorities and other parties in accordance with the laws of Vietnam.

4.2 From the Effective Date:

- (a) All the Assets of Avafood shall be officially transferred to Interfood in accordance with Article 6 of this Agreement; and
- (b) Interfood shall officially become the owner of (i) the Assets owned by Interfood before the Merger and (ii) the Assets transferred from Avafood. Concurrently, Interfood shall officially become a party with rights and obligations corresponding to the Assets of Interfood and the Assets transferred from Avafood to third parties; and
- (c) All the Employees of Avafood will become the employees of Interfood in accordance with Article 5 of this Agreement.

4.3 After the Effective Date, the Parties shall complete the necessary procedures for notification to the relevant competent authorities in order to officially terminate the operation of Avafood in accordance with the laws of Vietnam.

5. PLAN FOR USING WORKFORCE

- 5.1 On the Effective Date, all employees of Avafood (the “**Employees**”) shall be employees of Interfood
- 5.2 Interfood shall inherit all the rights and obligations under the labour contracts signed between Avafood and Employees by which the Merger shall not cause any unfavorable impact on such Employees. All obligations, responsibilities, salaries, bonuses and other benefits of the Employees shall remain unchanged after being transferred to Interfood.
- 5.3 Appointment, work allocation regarding manager positions, professional departments, and rearrangement of employment shall be decided by Interfood appropriately to organization model and company’s charter.
- 5.4 To ensure the Merger will be implemented in accordance with the laws of Vietnam and to ensure the lawful rights and benefits of the Employees, the Parties represent and warrant that:
 - (a) Fully comply with Labour Code of Vietnam and other prevailing regulations on labour and jobs; and
 - (b) Redundancy that once occurs after the Merger will be resolved in accordance with regulations of Vietnam on labour.

6. PROCEDURES AND CONDITIONS OF ASSETS TRANSFER

- 6.1 On the Effective Date, all the Assets of Avafood as well as its related lawful rights and benefits shall be transferred to Interfood with the transferring price as determined at the net book value on the Effective Date. The Parties agree to merge the Assets of Avafood into Interfood without re-evaluating the value of the Assets of Avafood.
- 6.2 Immediately after the Effective Date, the Parties shall implement the necessary procedures to complete the transfer of ownership, use rights and other corresponding rights, obligations relating to Assets from Avafood to Interfood in shortest time in accordance with the laws of Vietnam. With respect to the Assets whose the transfer of ownership or use right from Avafood to Interfood is required by law to be registered with and/or approved by the competent authorities, the Parties shall implement the registration and/or application for approval from the competent authorities in accordance with the prevailing law.

7. COMPLETION OF THE MERGER

The Merger shall be completed upon the satisfaction of the following conditions:

- (a) The Parties satisfy all the conditions of the Merger as defined in the Article 3 of this Agreement;
- (b) The Parties complete the transfer of Employees and Assets of Avafood to Interfood; and
- (c) The Parties complete the procedure of terminating the existence of Avafood in accordance with the laws of Vietnam.

8. COMMITMENTS OF THE PARTIES

- 8.1 To fully comply with the terms and conditions of this Agreement and the laws of Vietnam during the implementation of the Merger under this Agreement.

- 8.2 The Parties shall try their best and coordinate properly with the other Party to register the Merger with Licensing Authority pursuant to Article 3 of this Agreement as well as to complete the Merger pursuant to Article 7 of this Agreement.
- 8.3 The Merger shall not cause any unfavourable impact on any lawful rights and interests, business partners of Avafood and Interfood, Employees of Avafood and other relevant parties.
- 8.4 Any tax and other financial obligations of the Parties to the Socialist Republic of Vietnam prior to and after the Merger shall be inherited and fulfilled by Interfood in accordance with the laws of Vietnam.

9. OPERATION DURING THE TRANSITION PERIOD

- 9.1 During the period from the Signing Date to the Effective Date (the “**Transition Period**”), the Parties shall maintain their usual business operation.
- 9.2 All of revenues, costs, business contracts and labour contracts arising from and/or relating to the business operation of Avafood during the Transition Period shall be transferred to Interfood from the Effective Date.

10. GENERAL PROVISIONS

- 10.1 This Agreement, other documents and agreements between the Parties in relation to this Agreement, and/or the Merger shall form the entire agreement between the Parties relating to the purpose of this Agreement and shall replace all previous contracts or preliminary agreements.
- 10.2 In case of any provision of this Agreement, or the application of such provision, becomes or is held to be illegal, invalid or unenforceable by competent authorities, other provisions of this Agreement shall remain in full force and effect. The Parties further agree on the replacement of invalid or unenforceable provision of this Agreement by a valid and enforceable one to achieve the purpose of this Agreement.
- 10.3 This Agreement is governed by and construed in accordance with the laws of Vietnam. Any dispute arising out of or relating to this Agreement shall be resolved by arbitration at the Vietnam International Arbitration Center next to the Vietnam Chamber of Commerce and Industry (VIAC) in accordance with the Rules of Arbitration of this center. The arbitral tribunal shall consist of 1 (one) arbitrator and shall be appointed by the president of VIAC. The seat of arbitration is Ho Chi Minh City. The language used in arbitration proceedings is Vietnamese. The award and decision of the arbitration is final and binding to the Parties.
- 10.4 Parties may neither transfer nor authorize all or part of this Agreement or any of the rights, interests or obligations hereunder without prior written consent of the other Party. Any amendments and supplements to this Agreement must be made in writing and signed by authorized representatives of the Parties.
- 10.5 This Agreement is made into eight (8) original copies in English and eight (8) original copies in Vietnamese with equal validity. In case of any discrepancies between the English version and the Vietnamese version, the Vietnamese version shall prevail. Each Party shall keep three (3) original copies in English and three (3) original copies in Vietnamese. The remaining originals copies in English and Vietnamese will be submitted to competent authorities for registration and completion of the Merger.

IN WITNESS WHEREOF, this Agreement has been signed by the authorised representatives of the Parties hereto on the date as stated above.

**FOR AND ON BEHALF OF
THE MERGED PARTY**
Authorised Representative

**FOR AND ON BEHALF OF
THE MERGING PARTY**
Legal Representative

Name: _____
Position: _____

Name: _____
Position: _____