**ARTICLES OF INCORPORATION** **OF** **\_\_\_\_\_\_\_\_\_\_\_(Name of Corporation)**

**KNOW ALL MEN BY THESE PRESENTS:**

**The undersigned incorporators, all of legal age and a majority of whom are residents of the Philippines, have this day voluntarily agreed to form a (stock) (non-stock) corporation under the laws of the Republic of the Philippines;**

Note:  A corporation may be a stock corporation or a non-stock corporation.  Corporations that issue shares and are authorized to distribute dividends to shareholders are stock corporations.  All other corporations are non-stock corporation (Corporation Code, sec. 3). Many organizations that are not created for the purpose of gaining profit (such as charitable and religious organizations) are non-stock corporations.

As indicated above, the incorporators must all be of legal age and majority of whom are Philippine residents (not necessarily Philippines citizens).  However, for corporations that will engage in nationalized or partly-nationalized activities, Filipino citizenship requirements must be complied with.

**AND WE HEREBY CERTIFY:**

**FIRST: That the name of said corporation shall be**

**“………………………………………., INC. or CORPORATION”;**

Note:  See posting of January 27, 2010 on how to choose a corporate name.

**SECOND: That the purpose or purposes for which such corporation is incorporated are: (If there is more than one purpose, indicate primary and secondary purposes);**

Note:  This is called the purpose clause.  The primary purpose clause states the principal business activities that the corporation will engage in.  The statement of the purpose or purposes of the corporation operates as an authorization to the corporation to enter into transactions that may be considered as included or incidental to the attainment of said purposes.  It also imposes implied limitations on the powers of the corporation by the exclusion of lines of activity which are not covered. (Corporation Code Annotated, p. 152-153 [2005]).  Where a corporation has more than one stated purpose, the articles of incorporation must state which is the primary purpose and which is/are the secondary purpose(s).  A non-stock corporation may not include a purpose which would change or contradict its nature as such. (Corporation Code, sec. 15)

While the corporate purpose may be stated in broad and general terms, they should be stated with sufficient clarity to define with certainty the scope of business of the corporation.  (Id.) The purpose of the corporation must be “lawful”. (Corporation Code, sec. 10).

**THIRD: That the principal office of the corporation is located in the City/Municipality of ………………………………………, Province of ………………………………………….., Philippines;**

Note:  The articles must state the “place where the principal office of the corporation is to be established or located.”  The principal office must be located in the Philippines.

Under SEC Circ. No. 3, series of 2006, the SEC required that the articles must state the “(1) specific address of their principal office which shall include, if feasible, the street number, street name, barangay, city or municipality.”  “Metro Manila” is no longer allowed as address of the principal office.

**FOURTH: That the term for which said corporation is to exist is ……………. years from and after the date of issuance of the certificate of incorporation;**

Note:  The usual period stated for the corporate term is 50 years.  Under the Corporation Code, a corporation will exist for a period not exceeding 50 years from the date of incorporation unless sooner dissolved or unless the 50 year period is extended.  The corporate term as originally stated in the articles of incorporation may be extended for periods not exceeding 50 years in any single instance by an amendment to the articles of incorporation. The application for extension cannot be made earlier than 5 years prior to the original or subsequent expiry dates unless there are justifiable reasons for an earlier extension as may be determined by the SEC.  (Corporation Code, sec. 11)

**FIFTH: That the names, nationalities and residences of the incorporators of the corporation are as follows:**

**NAME                                   NATIONALITY             RESIDENCE**

**………………………………. ………………………………. ……………………………….**

**………………………………. ………………………………. ……………………………….**

**………………………………. ………………………………. ……………………………….**

**………………………………. ………………………………. ……………………………….**

**………………………………. ………………………………. ……………………………….**

Note:  There should be a minimum of 5 and a maximum of 15 incorporators, all of legal age and a majority of whom are residents of the Philippines. Each incorporator of a stock corporation must own or be a subscriber to at least 1 share of the capital stock of the corporation. (Corporation Code, sec. 10)

A corporation cannot be an incorporator (unless otherwise provided by special law that authorizes corporations to become incorporators).  A corporation can be a subscriber of shares in the corporation.

**SIXTH: That the number of directors or trustees of the corporation shall be ………….; and the names, nationalities and residences of the first directors or trustees of the corporation are as follows:**

**NAME                                   NATIONALITY             RESIDENCE**

**………………………………. ………………………………. ……………………………….**

**………………………………. ………………………………. ……………………………….**

**………………………………. ………………………………. ……………………………….**

**………………………………. ………………………………. ……………………………….**

**………………………………. ………………………………. ……………………………….**

Note:     There should be a minimum of 5 and a maximum of 15 directors or trustees.  A non-stock corporation will have trustees in lieu of directors.  The persons named as directors or trustees in the articles of incorporation will occupy those positions untl the first regular directors or trustees are duly elected.

**SEVENTH: That the authorized capital stock of the corporation is …………………………… (P………………….) PESOS in lawful money of the Philippines, divided into …………… shares with the par value of …………………………….. (P…………………..) Pesos per share.**

**(In case all the share are without par value):**

**That the capital stock of the corporation is ……………………… shares without par value. (In case some shares have par value and some are without par value): That the capital stock of said corporation consists of …………………… shares of which ………………….. shares are of the par value of ………………………… (P…………………) PESOS each, and of which ………………………….. shares are without par value.**

Note:     The Corporation Code does not impose any minimum capital stock on stock corporations; however, the paid-in capital of the corporation must not be less than PhP5,000. There are special laws that require minimum capital stock for corporations that wish to engage in certain areas of activities.  For example, a wholly owned Philippine subsidiary of a non-Philippine corporation may be required to have a minimum capitalization of US$200,000.

The articles of incorporation must state the number and type of shares the corporation can issue.  For corporations with a single class of shares, the number of shares is usually determined by dividing the proposed authorized capital stock with the proposed par value of the shares.  In general, a corporation will have a single class of common shares. However, a corporation may have different classes of shares (e.g., common and preferred shares), which will entitle the holders thereof to such rights, privileges or restrictions as may be stated in the articles of incorporation.  Shares may be voting, non-voting, preferred in the distribution of dividends, preferred in the distribution of assets in case of liquidation, convertible, redeemable, etc.

A par value share is one with a specific money value fixed in the articles of incorporation and appearing in the certificate of stock.  The primary purpose of the par value is to fix the minimum subscription or issue price of the shares.  (Corporation Code Annotated, p. 81 [2006]).

A no par value share is one without any stated value appearing on the face of the certificate of stock.  It will have an “issued value”, i.e., the consideration fixed by the corporation for the issuance of the shares.  (Id.)

Any restrictions on the transfer of shares should also be stated in the articles of incorporation.  These restrictions may include rights of first refusal, rights of last refusal, tag along rights, drag along rights, etc.

**EIGHTH: That at least twenty five (25%) per cent of the authorized capital stock above stated has been subscribed as follows:**

**Name of Subscriber         Nationality     No of Shares      Amount Subscribed**

**…………………………….      ………………..     ……………………     …………………..**

**…………………………….      ………………..     ……………………     …………………..**

**…………………………….      ………………..     ……………………     …………………..**

**…………………………….      ………………..     ……………………     …………………..**

**…………………………….      ………………..     ……………………     …………………..**

Note:  At least 25% of the authorized capital stock of a stock corporation must be subscribed (and the Treasurer must submit a sworn statement confirming this requirement). (Corporation Code, sec. 14).  Because the Corporation Code uses the phrase “at least twenty-five percent (25%) of the authorized capital stock of the corporation”, my view is that the 25% requirement should be based on amount of authorized capital stock, which is a peso amount, and not on the number of shares.  I understand that there is a view (which I do not agree with) that the 25% requirement should also take into account the number of shares of the corporation.

**NINTH: That the above-named subscribers have paid at least twenty-five (25%) percent of the total subscription as follows:**

**Name of Subscriber       Amount Subscribed    Total Paid-In**

**…………………………….. ……………………………….. ………………………….**

**…………………………….. ……………………………….. ………………………….**

**…………………………….. ……………………………….. ………………………….**

**…………………………….. ……………………………….. ………………………….**

**…………………………….. ……………………………….. ………………………….**

**(Modify Nos. 8 and 9 if shares are with no par value. In case the corporation is non-stock, Nos. 7, 8 and 9 of the above articles may be modified accordingly, and it is sufficient if the articles state the amount of capital or money contributed or donated by specified persons, stating the names, nationalities and residences of the contributors or donors and the respective amount given by each.)**

Note:     At least 25% of the total subscription must be paid.  For example, if the corporation has an authorized capital stock of PhP1,000,000 with 1,000,000 shares having a par value of PhP1 each, the amount subscribed must be at least PhP250,000 (equivalent to 250,000 shares) and the amount paid must at least be PhP62,500, which amount must be deposited with the bank at the time the application for incorporation is filed.

Payment for shares may be in the form of cash, property, etc.  However, additional documents must be submitted to the SEC if the payment is not in the form of cash.

**TENTH: That ………………………………… has been elected by the subscribers as Treasurer of the Corporation to act as such until his successor is duly elected and qualified in accordance with the by-laws, and that as such Treasurer, he has been authorized to receive for and in the name and for the benefit of the corporation, all subscription (or fees) or contributions or donations paid or given by the subscribers or members.**

Note:  The articles of incorporation must name the treasurer-in-trust, who holds in trust the subscriptions paid by the subscribers of the corporation.

**ELEVENTH: (Corporations which will engage in any business or activity reserved for Filipino citizens shall provide the following):**

**“No transfer of stock or interest which shall reduce the ownership of Filipino citizens to less than the required percentage of the capital stock as provided by existing laws shall be allowed or permitted to recorded in the proper books of the corporation and this restriction shall be indicated in all stock certificates issued by the corporation.”**

Note:  The foregoing provision applies to corporations that will engage in partly-nationalized activities.  The Foreign Investment Negative List issued pursuant to the Foreign Investments Act contains a summary of nationalized and partly-nationalized activities.

**IN WITNESS WHEREOF, we have hereunto signed these Articles of Incorporation, this ………………. day of …………………………, 19 ……….. in the City/Municipality of …………………………………., Province of …………………………………………., Republic of the Philippines.**

**……………………………………..                                     ………………………………………**

**……………………………………..                                     ………………………………………**

**…………………………………………**

**(Names and signatures of the incorporators)**

**SIGNED IN THE PRESENCE OF:**

**…………………………………                                            ………………………………………**