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RAJAH&TANN | Myanmar

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Based in Yangon

Full service local firm with Myanmar qualified lawyers

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Close working relationship with professional firms and key government agencies

Experienced in M&A, Foreign Investment Projects, Infrastructure, Energy, Banking, Real Estate

Development, Regulatory, and Disputes







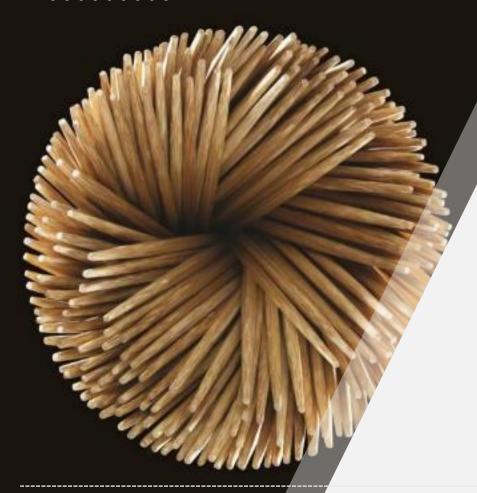


2022





GENERAL ROADMAP



- 01 SOURCING POTENTIAL DEALS
- 02 NON-DISCLOSURE AGREEMENT (NDA)
- 03 MEMORANDUM OF UNDERSTANDING / TERM SHEET
- 04 DUE DILIGENCE (DD)
- 05 DEFINITIVE AGREEMENTS
- 06 COMPLETION



Sourcing potential deals

- PE and VC investment opportunities
- Strategic Investments
- Buyout of foreign investors
 - Telenor
 - Puma Energy
 - Ooredoo
 - Sedona Hotel
 - Kirin
- Co-investments





NON-DISCLOSURE AGREEMENT (NDA)





- Exchange of Information by the Parties during the deal process
- An agreement to ensure that the information disclosed during the process is protected
- Mutual vs Non-Mutual NDA
- The importance of properly drafted NDA

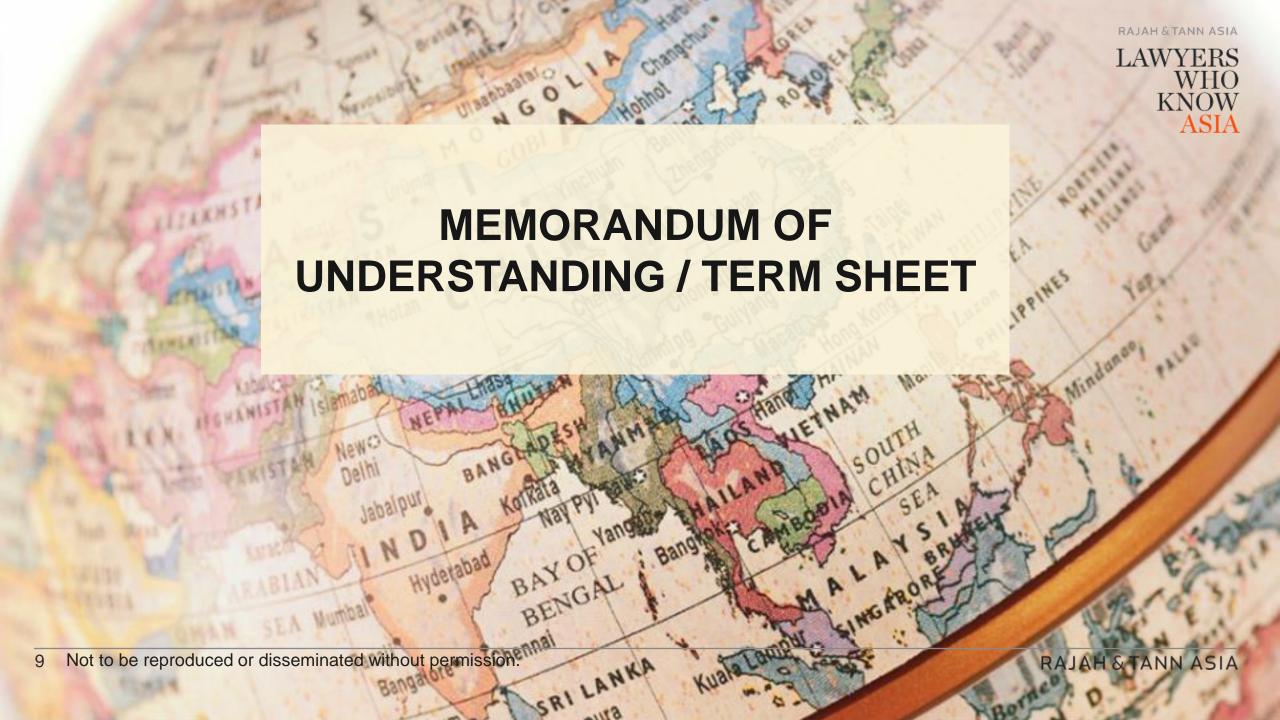
NON-DISCLOSURE AGREEMENT (NDA)



Key Terms of an NDA



- (i) Parties
- (ii) Definition of Confidential Information
- (iii) Exceptions to Confidentiality
- (iv) Disclosure of Information
- (v) Destruction of Materials
- (vi) Terms



Memorandum of Understanding

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- High Level document setting out the parties' basic understanding
 - Structure of the Deal
 - Full / Partial acquisition
 - Onshore / Offshore
 - Estimated Value
 - Payment Terms / Conditions
 - Timeline of the process
 - Exclusivity
- Typically, non-binding



Term Sheet

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- Further details of the key terms of the Definitive Agreements
- No hard rule when to prepare depending on the progress of negotiations
 - with the MOU
 - after DD
- Pros / cons of having a detailed document at the outset





Why Due Diligence?

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Correct Information Asymmetry

- An investigation on the target to understand its current state and value
- Identify issues to be addressed in the definitive agreements



Different Types of Due Diligence

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- Due Diligence on different aspects of the Target
 - Business
 - Legal
 - Tax
 - Financial
 - Environmental
 - IT
 - Counterparty
- Typically engage advisors for each DD



What is done during Legal Due Diligence

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- Agree on Scope / Depth
- Request for documents / information
- Investigate Key Areas
 - Corporate documents
 - Licences and Permits
 - Material Contracts
 - Labour / employment
 - Assets
 - Disputes / Litigation
- Due Diligence Report





Share Purchase Agreement / Asset Purchase Agreement / **Business Transfer Agreement**



Document setting out the key terms of the purchase of shares / asset / business

- Consideration
- Payment Terms
- Pre-Completion Undertakings
- Conditions Precedent
- Completion
- Representation and Warranties
- Indemnities
- Non-Compete

Findings of the due diligence are reflected



Shareholders' Agreement

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Document governing the rights, obligations and relationship of the shareholders

- Responsibilities of the Shareholders
- **Board Composition**
- **Reserved Matters**
- Financing





Completion Process

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Confirm Conditions Precedent are fulfilled

- Regulatory Approval (MIC / TSMC / FESC)
- Bank Loans
- Rectification of DD issues

Payment of Consideration

Ensure funds are available

Filings with Authority

- IRD (stamp duty)
- DICA (Change of Shareholder / Director)
- MIC (Notification etc)





SPEAKER PROFILES



HIROYUKI OTA Partner (Foreign Attorney) Japan Desk and Myanmar Practice

Hiroyuki has a wide range of experience in assisting multinational corporations in entering into the South East Asian market through mergers and acquisitions, joint ventures and greenfield foreign direct investments, which includes countries such as Myanmar, Thailand, Malaysia, Philippines, India and Vietnam, and has a deep understanding of the region.

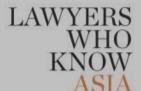
His work has earned him well-deserved recognition as a "Highly Regarded" lawyer for M&A by IFLR1000.

DISCLAIMER



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