



NAIROBI CENTRE FOR INTERNATIONAL ARBITRATION
CODE OF CONDUCT FOR ARBITRATORS

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PREAMBLE

This Code of Conduct applies to all arbitration proceedings in which disputes or claims are submitted to one or more Arbitrators upon appointment by the NCIA. NCIA expects Arbitrators to observe fundamental standards of ethical conduct. Various aspects of Arbitrator conduct, including some matters covered by this Code, may be governed by agreements of the parties or applicable rules or law. This Code does not take the place of, or supersede, any such agreements, rules and laws, and does not establish any new or additional grounds for judicial review of arbitration awards. While this Code is intended to provide ethical guidelines, it is not part of the arbitration rules of the NCIA.

PRINCIPLE 1: AN ARBITRATOR SHOULD UPHOLD THE INTEGRITY AND FAIRNESS OF THE DISPUTE RESOLUTION PROCESS.

- 1.1 An Arbitrator should recognize a responsibility to the parties whose rights will be decided, to other participants in the proceeding, to the integrity and fairness of the process itself and to the public.
- 1.2 An Arbitrator should perform duties diligently, conduct a proceeding as effectively and economically as possible, and conclude a case as efficiently and promptly as the circumstances reasonably permit.
- 1.3 Arbitrators should treat all parties equally and conduct themselves in a way that is fair to all parties. They should not be swayed by outside pressure, by public clamor, by fear of criticism or by self interest.
- 1.4 An Arbitrator should be patient with and courteous to the parties, their lawyers and the participants, and should encourage similar conduct by all participants in the proceedings.
- 1.5 An Arbitrator should comply with applicable procedures and rules, and should neither exceed authority nor do less than is required to exercise authority completely.
- 1.6 An Arbitrator should make all reasonable efforts to prevent delaying tactics, harassment of parties by other participants or other abuses or disruption of the process.
- 1.7 The ethical obligations of an Arbitrator begin upon appointment and continue throughout all stages of the proceeding.

PRINCIPLE 2: AN ARBITRATOR SHOULD DISCLOSE ANY INTEREST OR RELATIONSHIP THAT AFFECTS IMPARTIALITY OR CREATES AN UNFAVORABLE APPEARANCE OF PARTIALITY OR BIAS.

- 2.1 An Arbitrator should avoid entering into any financial, business, professional, family or social relationship, or acquiring any financial or personal interest, that adversely affects impartiality or might reasonably create the unfavorable appearance of partiality or bias. For a reasonable period of time after a case, arbitrators should avoid entering into any such relationship, or acquiring any such interest, in circumstances that might

reasonably create the impression that they had been influenced by the anticipation or expectation of the relationship or interest.

2.2 Persons who are asked to serve as arbitrators should, before accepting, disclose:

- i. Any financial, personal or material interest in the outcome of the arbitration;
- ii. Any existing or past material, financial, business, professional, family or social relationships that affect impartiality or might reasonably create an unfavorable appearance of partiality or bias.

2.3 Persons asked to serve as Arbitrators should disclose any such relationships they personally have with any Party, lawyer or individual whom they understand will be a witness. They should also disclose any such relationships involving immediate members of their families or their current employers, partners or business associates.

2.4 Arbitrators should make a reasonable effort to inform themselves of any interests or relationships described above.

2.5 The obligation to disclose the material interests or significant relationships described above is a continuing duty. An Arbitrator must disclose any such interests or relationships regardless of the stage in the proceedings in which they arise, or are recalled or discovered.

2.6 Disclosure should be made to all parties and to any other Arbitrator.

2.7 In the event that all parties ask an Arbitrator to withdraw because of prejudice or bias, the Arbitrator should do so. In the event that fewer than all of the parties ask an Arbitrator to withdraw because of prejudice or bias, the Arbitrator should withdraw unless either of the following circumstances exists:

- i. Other applicable rules exist determining challenges; or
- ii. The Arbitrator, after carefully considering the matter, determines that the reason for the challenge is not substantial, that the Arbitrator can act and decide the case impartially and fairly, and that withdrawal would cause unfair delay or expense to another Party or would be contrary to the ends of justice.

PRINCIPLE 3: IN COMMUNICATING WITH THE PARTIES, AN ARBITRATOR SHOULD AVOID IMPROPRIETY OR THE APPEARANCE OF IMPROPRIETY.

3.1 An Arbitrator should not discuss a case with any Party in the absence of each other Party, except in any of the following circumstances.

- i. Discussions may be had with a Party concerning such matters as setting the time and place of proceedings or making other arrangements for the conduct of the proceedings or procedural questions. The Arbitrator should not make any final determination concerning the matter discussed before giving each absent Party an opportunity to respond.
- ii. If a Party fails to be present at a proceeding after having been given due notice, the Arbitrator may discuss the case with any Party who is present.
- iii. Private discussions may take place if requested or consented to by all parties.
- iv. Such discussions may take place as otherwise provided in applicable rules or in an agreement of the parties.

3.2 Whenever an Arbitrator communicates in writing or by e-mail with one Party, the Arbitrator should at the same time send a copy of the communication to each other Party.

PRINCIPLE 4: AN ARBITRATOR SHOULD BE HONEST AND TRUSTWORTHY AND MAINTAIN CONFIDENTIALITY.

4.1 An Arbitrator is in a relationship of trust with the parties and should not, at any time, use confidential information acquired during the proceeding to gain personal advantage or advantage for others, or to adversely affect the interest of another.

4.2 Unless otherwise agreed by the parties, or required by applicable rules or law, an Arbitrator shall keep confidential all matters relating to the proceedings and shall not disclose to anyone except the parties at any time confidential awards or settlements.

4.3 Arbitrators should avoid bargaining with parties over the amount of payments, engaging in negotiations concerning payments or discussing payments in any way that would create an appearance of coercion or other impropriety.

4.4 Reference shall be made to the Nairobi Centre for International Arbitration (Arbitration) Rules for the rule on Fees and Costs of Arbitration and the Schedule of Fees

PRINCIPLE 5: AN ARBITRATOR SHOULD MAKE DECISIONS IN A JUST, INDEPENDENT AND DELIBERATE MANNER.

5.1 An Arbitrator should, after careful deliberation, decide all issues submitted for determination and not other issues.

5.2 An Arbitrator should not delegate to any other person the duty to decide.

5.3 In the event that all parties agree upon a settlement of the issues in dispute and ask an Arbitrator to embody that agreement in an award, an Arbitrator may do so, but is not required to do so unless satisfied with the propriety of the terms of the agreement. Whenever an Arbitrator embodies a settlement in an award, the Arbitrator should state in the award that it is based on an agreement of the parties.
