

**The Thai Arbitration Institute**  
**The Code of Ethics for Arbitrators**

Whereas it is deemed expedient to set up a Code of Ethics for Arbitrators for use as guidelines to the arbitrators and conciliators in performing their duties. The Thai Arbitration Institute has, therefore, set up this Code of Ethics.

**CHAPTER 1**  
**General Provisions**

**Article 1** This Code is in no way interpreted as to limit the discretion of the court in its determination for setting aside or enforcing an arbitral award.

**Article 2** This Code shall apply to the arbitration under the Institute.

**CHAPTER 2**  
**Principles**

**Article 3** An arbitrator must maintain the integrity and fairness of the arbitral proceedings.

**Article 4** An arbitrator has a responsibility not only to the parties but also to the arbitral proceedings and the Institute.

**Article 5** An arbitrator shall not suggest himself to a party in order to be appointed as arbitrator. However, a person may indicate a general willingness to serve as an arbitrator in the Institute.

**Article 6** A person should accept the appointment of an arbitrator only if he believes that he is available to conduct the arbitral proceedings and render an award promptly, expeditiously and fairly.

**Article 7** A person who may be challenged under the law of arbitration should not accept the appointment.

**Article 8** An arbitrator who is appointed by either party shall be impartial and should conduct the proceedings independently and provide fairness to both parties.

**Article 9** An arbitrator should neither exceed the authority given nor act less than that is required to fulfill his duties in good faith.

**Article 10** After accepting the appointment or while in office, an arbitrator should avoid entering into any financial, business, professional, family or social relationship with either party or any other person, which may cause a party to have reasonable doubt as to his independence or impartiality.

Within a reasonable time after rendering an award, the arbitrator shall avoid any act described in paragraph one which may cause a party or any other person in such circumstances to believe that the arbitral award was rendered as a result of such improprieties.

**Article 11** Unless otherwise provided in this Code, the ethical obligations of an arbitrator begin upon acceptance of the appointment and continue throughout all stages of the proceedings until the copies of final award have been given to the parties.

### **CHAPTER 3 Disclosure of Facts**

**Article 12** A person who is approached to serve as an arbitrator shall, before acceptance, disclose all facts, which may cast reasonable doubt as to his independence or impartiality as follows:

(1) Any direct or indirect financial or personal interests in the outcome of the arbitration;

(2) Any existing or past financial, business, occupational, family or social relationships which are likely to affect his independence or impartiality. The disclosure of the said facts shall include that of his family members, employers or business partners in relation to other arbitrators, any party, attorneys or prospective witnesses in the case.

**Article 13** A person who is approached to serve as an arbitrator shall endeavor to acquire the facts in Article 12.

**Article 14** The obligation to disclose facts described in Article 12 is a continuing duty, which requires an arbitrator to disclose any fact which may arise, or have only been recalled or become aware at any stage of the arbitral proceedings.

**Article 15** For the disclosure of facts under Articles 12 and 14, the arbitrator shall inform the Institute in writing for disclosure to the parties and other arbitrators.

**Article 16** In the event that an arbitrator is requested by all parties to withdraw by any reason, the arbitrator shall oblige by it. In the event that an arbitrator is requested to withdraw by certain parties because of alleged partiality or bias, the arbitrator should withdraw, with the following exceptions:

(1) If an agreement of the parties, or arbitration rules agreed to by the parties, establishes procedures for determining challenges to arbitrators, then those procedures shall be followed; or

(2) If the arbitrator, after due consideration of the matter, determines that the reason for the challenge is not substantial, and that he can nevertheless proceed with the proceedings and decide the case impartially and fairly, and that the withdrawal would cause undue delay or expenses to the other party or would be contrary to the justice.

### **CHAPTER 5 Communications with the Parties**

**Article 17** Unless otherwise provided in the applicable arbitration rule or in an agreement of the parties, an arbitrator should not discuss a case with any party in the absence of the other party, except in any of the following circumstances:

(1) The discussion is made at the time and place of the hearings in the relevant proceedings. However, the arbitrator shall inform the other party of the discussion when he has the first opportunity to do so, and shall not make any determination concerning the matter discussed before giving the absent party an opportunity to respond.

(2) A party fails to present at a hearing after having been given due notice, the arbitrator may discuss the case with any party who is presented.

(3) All parties consent thereto.

**Article 18** Unless otherwise provided in the applicable arbitration rule or in an agreement of the parties, whenever an arbitrator communicates in writing with one party or receives any written communication from one party, the arbitrator shall forward a copy of such correspondence to the Institute in order to inform other parties and arbitrators.

**Article 19** In case where there are several arbitrators, an arbitrator has been informed that other arbitrator communicates with any party in an improper manner, such arbitrator may notify the Institute for appropriate action.

**Article 20** An arbitrator must not, whether directly or indirectly, accept from any party any gift, present or other benefit having value more than that amiably or customarily given in society from any party.

**Article 21** The sole arbitrator, the chairman of the arbitral tribunal, or an umpire must not communicate with any party in absence of the other party in such manner that may cause a doubt concerning his independence and impartiality.

## **CHAPTER 6**

### **Conduct of Proceedings**

**Article 22** Unless otherwise provided in the applicable arbitration rule or in an agreement of the parties, an arbitrator shall conduct any proceedings in a manner which he considers appropriate by taking into account the principle of justice.

**Article 23** An arbitrator shall perform his duties in a diligent manner, devoted and be conscientious towards the proceedings, and shall perform his duties in the best manner without causing unnecessary expenses to the parties and make an award promptly.

**Article 24** An arbitrator shall conduct the proceedings in an equitable manner and treat all parties with equality and fairness at all stages of the proceedings.

**Article 25** An arbitrator shall be patient and courteous to the parties, to their attorneys and to the witnesses and shall encourage similar conduct by all participants in the proceedings.

**Article 26** Unless otherwise provided in the applicable arbitration rule or in the agreement of the parties, an arbitrator shall accord to all parties the right to attend the

proceedings and ensure that the parties have all opportunities to produce the facts to support their claims. The arbitrator shall not be too rigid to the procedure and rules of evidence.

**Article 27** An arbitrator shall provide the parties with an opportunity to appoint any persons as their representative in the proceedings.

**Article 28** If a party fails to appear after due notice, an arbitrator shall proceed with the arbitration when authorized to do so by the applicable arbitration rule, the agreement agreed to by the parties or by law. However, an arbitrator shall do so only after receiving assurance that the notice has been served to the party in default.

**Article 29** An arbitrator shall make due preparation for the proceedings and shall conduct the proceedings without unnecessary adjournment. He shall also control the proceedings in an orderly manner.

**Article 30** In case where an arbitrator does not record the testimony of the witness, he shall oversee and ensure that the officer records the testimony with the same substance as would be recorded by himself. The record of statement and minutes of the proceedings shall be clear and correspond to the facts in the proceedings.

**Article 31** An arbitrator shall not, *ex officio*, adduce evidences in the proceedings. Except where justice requires, an arbitrator may call for any substantial evidences relating to the material issues of the case.

**Article 32** If requested to do so by all parties, the arbitrator may mediate or settle the dispute or act as conciliator.

**Article 33** Where there are more than one arbitrator, the arbitral tribunal shall afford each other the full opportunity to participate in all aspects of the proceedings.

## **CHAPTER 7**

### **Making of the Award**

**Article 34** An arbitrator shall make an award justly, exercising independent judgment and not permit outside pressure to affect the decision.

An arbitrator shall not delegate his duty to render the award render to any other person.

**Article 35** An arbitrator shall make a decision on every issue in dispute, but may not make an award beyond the scope of the arbitration agreement or relief sought by the parties.

**Article 36** In case where there are several arbitrators, in a meeting for consultation on the case, all the arbitrators shall thoroughly prepare themselves for the case in advance in regard to both questions of fact and law. All the arbitrators shall jointly consider and provide their opinions and supporting reasons, and shall respect opinions and reasons of each other in order to attain an award that is correct and fair.

**Article 37** An award shall possess rulings that correspond to the issue of the case, provide clear reasons, use proper written language, precise and easily understandable wordings. Any other contents not directly related to the decision on an issue of the case or not making such a decision to be more explicit shall not appear in the award.

**Article 38** In case where the parties can agree on the resolution of dispute and ask the arbitrator to make an award under such agreement, the arbitrator shall do so only when such agreement is not contrary to the law and must specify that the award is derived from the agreement of the parties.

**Article 39** After making an award, the arbitrator shall not allow any further proceedings except for the proceedings prescribed by an arbitration agreement or law.

## **CHAPTER 8**

### **Confidentiality**

**Article 40** An arbitrator shall not exploit the information acquired during the proceedings and designated as secret by the parties to acquire benefits for himself or other persons, or to cause damage to other person.

**Article 41** A person who has been approached to be an arbitrator must keep confident any secret acquired from such approach.

**Article 42** An arbitrator shall neither allow any person to have access to his draft award before making the award, nor permit any person to have accessed to the award before delivering a copy of award to the parties. Furthermore, the arbitrator shall not disclose the award except with the consent of the parties.

## **CHAPTER 9**

### **Fees**

**Article 43** An arbitrator should delegate to the Institute the negotiation of his fee.

---