BRITISH COLUMBIA INTERNATIONAL COMMERCIAL ARBITRATION CENTRE
CODE OF ETHICS FOR ARBITRATORS IN COMMERCIAL DISPUTES

This Code of Ethics applies to all arbitrators who are panelists of the British Columbia International Commercial Arbitration Centre (“Centre”). This Code sets forth generally accepted standards of ethical conduct for the guidance of arbitrators and parties in commercial disputes, whether or not such arbitrations are conducted pursuant to the Domestic Commercial Arbitration Rules of Procedure or the International Commercial Arbitration Rules of Procedure of the Centre.

A. An arbitrator should uphold the integrity and fairness of the arbitration process

1. An arbitrator has a responsibility not only to the parties but also to the process of the arbitration itself, and must observe high standards of conduct so that the integrity and fairness of the process will be preserved.

2. An arbitrator should only accept an appointment if satisfied:
   (a) That he or she can serve impartially;
   (b) That he or she can serve independently from the parties, counsel, potential witnesses and the other arbitrators;
   (c) That he or she is competent to serve in accordance with the agreement to arbitrate; and
   (d) That he or she can be available to commence the arbitration in accordance with the requirements of the proceeding and thereafter to devote the time and attention to its completion that that parties are reasonably entitled to expect.

3. After accepting appointment and while serving as an arbitrator, a person should avoid entering into any business, professional, or personal relationship, or acquiring any financial or personal interest, which is likely to affect impartiality or which might reasonably create the appearance of partiality.

4. When an arbitrator’s authority is derived from the agreement of the parties, an arbitrator should neither exceed that authority nor do less than is required to exercise that authority completely. An arbitrator has no ethical obligation to comply with any agreement, procedures or rules that are unlawful or that, in the arbitrator’s judgment, would be inconsistent with this Code.

5. An arbitrator should conduct the arbitration process so as to advance the fair and efficient resolution of the matters submitted for decision.

6. An arbitrator should withdraw from the process in the arbitration is being used to further criminal conduct, a conflict of interest that has not been or cannot be waived, the arbitrator’s inability to maintain impartiality, or the arbitrator’s physical or mental
disability. In addition, an arbitrator should be aware of the potential need to withdraw from a case if procedural or substantive unfairness appears to have irrevocably undermined the integrity of the arbitration process.

7. The ethical obligations of an arbitrator begin upon acceptance of the appointment and continue throughout all stages of the proceeding.

B. An arbitrator should disclose any interest or relationship likely to affect impartiality or which might create an appearance of partiality.

8. Persons who are requested to serve as arbitrators should, before accepting, disclose:

(a) All matters required by applicable law and any actual or potential conflict of interest or relationship or other information that reasonably could lead a party to question the arbitrator’s impartiality. In the event there is an actual or potential conflict of interest, an arbitrator should not proceed unless all parties have acknowledged and waived the conflict. If the conflict casts serious doubt on the integrity of the process, the arbitrator should withdraw, notwithstanding receipt of a full waiver;

(b) Any known direct or indirect financial interest in the outcome of the arbitration;

(c) Any known existing or past financial, business, professional or personal relationships which might reasonably affect impartiality or lack of independence in the eyes of any of the parties or which might create an appearance of partiality.

(d) The nature and extent of any prior knowledge they may have of the dispute; and

(e) Any other matters, relationships or interests which they are obligated to disclose by the agreement of the parties, the rules or practices of an institution, or applicable law regulating arbitrator disclosure.

9. The obligation to disclose interests or relationships described in par. 8 is a continuing duty which requires a person to disclose, as soon as practicable, at any stage of the arbitration, any such interests or relationships which may arise, or which are recalled or discovered.

10. Any doubt as to whether or not disclosure is to be made should be resolved in favour of disclosure.

11. Disclosure should be made to all parties unless other procedures for disclosure are provided in the agreement of the parties.

12. When parties, with knowledge of a person’s interests and relationships, nevertheless desire that person to serve as an arbitrator, that person may properly serve.
C. An arbitrator should avoid impropriety or the appearance of impropriety in communicating with parties.

13. An arbitrator or prospective arbitrator should not discuss a proceeding with any party in the absence of any other party, except in any of the following circumstances:

(a) When the appointment of a prospective arbitrator is being considered, the prospective arbitrator may ask about the identities of the parties, counsel, or witnesses and the general nature of the case;

(b) The prospective arbitrator may respond to inquiries from a party or its counsel designed to determine his or her suitability and availability for the appointment, but shall not discuss the merits of the case;

(c) Discussions may be had with a party concerning such logistical matters as setting the time and place of hearings or making other arrangements for the conduct of the proceedings. However the arbitrator should promptly inform each other party of the discussion and should not make any final determination concerning the matter discussed before giving each absent party an opportunity to express the party’s views; or

(d) If a party fails to be present at a hearing after having been given due notice, or if all parties consent, the arbitrator may discuss the case with any party who is present.

14. Whenever an arbitrator communicates in writing with one party, the arbitrator should at the same time send a copy of the communication to every other party, and whenever the arbitrator receives any written communication concerning the case from one party which has not already been sent to every other party, the arbitrator should send or cause it to be sent to the other parties.

D. An arbitrator should conduct the proceedings fairly and diligently.

15. An arbitrator should conduct the proceedings in an even handed manner. The arbitrator should be patient and courteous to the parties, their representatives and the witnesses and should encourage similar conduct by all participants.

16. The arbitrator should allow each party a fair opportunity to present its evidence and arguments.

17. Co-arbitrators should afford each other full opportunity to participate in all aspects of the proceedings.
E. **An arbitrator should make decisions in a just, independent and deliberate manner.**

18. An arbitrator should, after careful deliberation and exercising independent judgment, decide all issues submitted for determination and issue an award. An arbitrator should decide no other issues.

19. An arbitrator should decide all matters fairly and impartially, exercising independent judgment, and should not permit outside pressure to affect the decision. All arbitrators, by whomever appointed, are expected to be independent of the parties and to be neutral.

20. An arbitrator should not delegate the duty to decide to any other person.

21. If, at any stage of the arbitration process, all parties agree on a settlement of the issues in dispute and request the arbitrator to embody the agreement in a Consent Award, the arbitrator should comply with such request unless the arbitrator believes the terms of the agreement are illegal or undermine the integrity of the arbitration process. In that event the arbitrator may refuse to enter the proposed Consent Award and withdraw from the case.

F. **An arbitrator should be faithful to the relationship of trust and confidentiality inherent in that office.**

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

23. Unless otherwise agreed by the parties, or required by applicable rules or law, an arbitrator should keep confidential all matters relating to the arbitration proceedings and decisions. An arbitrator should not discuss a case with persons not directly involved in the arbitration unless the identity of the parties and details of the case are sufficiently obscured to eliminate any realistic probability of identification. An arbitrator may obtain help from an associate, a research assistant or other persons in connection with reaching his or her decision if the arbitrator informs the parties of the use of such assistance and such persons agree to be bound by the provisions of this section F.

24. An arbitrator may discuss a case with another member of the arbitration panel hearing that case, whether or not all panel members are present. Where there is more than one arbitrator, an arbitrator should not disclose to anyone the deliberations of the arbitrators.

G. **An arbitrator should adhere to standards of integrity and fairness when making arrangements for compensation and reimbursement of expenses.**

25. Arbitrators who are to be compensated for their services or reimbursed for their expenses shall adhere to standards of integrity and fairness in making arrangements for such payments. Generally accepted practices include:
(a) Before the arbitrator accepts appointment, the basis of payment, including any cancellation fee, compensation in the event of withdrawal and compensation for study and preparation time, and all other charges, should be established. Except for the arrangement for the compensation of party-appointed arbitrators, all parties should be informed in writing of the terms established.

(b) In proceedings conducted under the rules or administration of an institution that is available to assist in making arrangements for payments, communication related to compensation should be made through the institution. In proceedings where no institution has been engaged by the parties to administer the arbitration, any communication with arbitrators (other than party appointed arbitrators) concerning payments should be in the presence of all parties; and

(c) Arbitrators should not, absent extraordinary circumstances, request increases in the basis of their compensation during the course of proceedings.