

**NCAC**

មជ្ឈមណ្ឌលជាតិនៃមជ្ឈត្តការផ្នែកពាណិជ្ជកម្ម  
NATIONAL COMMERCIAL ARBITRATION CENTRE



# INTERNAL RULES

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28 March 2021



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## Preamble

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- A. **WHEREAS** the Law on Commercial Arbitration (as defined in Chapter I), Sub-Decree No. 124 (as defined in Chapter I) and Sub-Decree No. 182 on the Amendment of Article 52 of the Sub-Decree No. 124 (as defined in Chapter I) establish an independent NCAC (as defined in Chapter I) to promote the resolution of commercial disputes by means of arbitration and to create the necessary infrastructure and rules for the administration of arbitral proceeding of commercial disputes in Cambodia.
- B. **WHEREAS** the internal rules are important for governing the structure, operation and governance of the NCAC.

**NOW THEREFORE WE**, members of the NCAC, agree to establish and abide by the rules set forth under the provisions of the Internal Rules (the “Internal Rules”) as set forth below:



## CHAPTER 1

# General Provisions

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### **Article 1. Name and Legal Form**

The arbitration centre shall carry the name of “National Commercial Arbitration Centre” (the “NCAC”). The NCAC is a non-profit legal entity under Cambodian law, established pursuant to the Law on Commercial Arbitration promulgated on the 5th of May 2006 (the “Law on Commercial Arbitration”), Sub-Decree No. 124 on the Organization and Functioning of the NCAC dated 12th of August 2009 (the “Sub-Decree No. 124”) and Sub-Decree No. 182 on the Amendment of Article 52 of the Sub-Decree No. 124 dated 31st of December 2010 (the “Sub-Decree No. 182”).

### **Article 2. Head Office of the NCAC**

The Head Office of the NCAC shall be located in Phnom Penh at the address as may be determined from time to time by the Executive Board.

### **Article 3. Purpose**

The Internal Rules supplement, and shall be read in conformity with, the Law on Commercial Arbitration, the Sub-Decree No. 124, and Sub-Decree No. 182. The purpose of the Internal Rules is to set clear rules for the structure, operational and administrative procedures, and governance of the NCAC.

### **Article 4. Interpretation**

- 4.1 Any NCAC member may request the Executive Board of the NCAC to provide interpretation on any of the rules set out in the Internal Rules.
- 4.2 The Internal Rules are subject to the Law on Commercial Arbitration, Sub-decree No. 124, and Sub-Decree No. 182.

### **Article 5. Communications**

Where the Internal Rules require that a communication (including a submission of documents, an announcement, etc.) be made in writing, such written communication may be delivered by hand, registered post, courier, email or any other means of communication that provides a record of its delivery.

Such a communication is deemed to have been received if it is delivered to the addressee or the addressee's representative:

- (a) received personally or at the addressee's designated residential address, or company's head office, or email address or other addresses of electronic means of communication;
- (b) in the absence of (a), leaving the written communication at the addressee's habitual residence, or main place of business; or
- (c) if none of these can be identified after making reasonable inquiry, then leaving the written communication at the addressee's last-known residential address or mailing address.

### **Article 6. Time Limits**

Any period of time mentioned in the Internal Rules shall commence on the day following the day on which a communication is received in accordance with Article 5 above. If the last day of such period is Saturday, Sunday or a public holiday of public institutions determined by the Royal Government of Cambodia, the period shall be extended until the first business day which follows that Saturday, Sunday or a public holiday of public institutions determined by the Royal Government of Cambodia. Saturdays, Sundays and public holidays of public institutions determined by the Royal Government of Cambodia occurring during the continuance of the period of time shall be included in calculating the aforementioned period.

### **Article 7. Further Rules**

To the extent necessary or useful the Executive Board may, from time to time, set additional rules regarding administrative, financial, personnel or other matters so long as in compliance with this Internal Rules and decisions made by the General Assembly.

## CHAPTER 2

# Secretary General and General Secretariat

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### Article 8. Secretary General

- 8.1 The Secretary General is appointed by the Executive Board and is accountable to the Executive Board. The position of the Secretary General shall be independent against the activities of an arbitrator or the work of an arbitrator generally, whether in Cambodia or abroad. For the avoidance of doubt, the Secretary General shall not directly or indirectly engage in any work as an arbitrator or in any capacity in the arbitration proceedings, whether in Cambodia or abroad, while serving as the Secretary General.
- 8.2 The roles and functions of the Secretary General shall include any or all of the items set out in the Internal Rules or any additional rules as set forth by the Executive Board from time to time. The qualifications of the Secretary General shall be determined by the Executive Board from time to time.
- 8.3 In managing the General Secretariat of the NCAC, the Secretary General shall ensure that:
- (a) the financial accounting system of the NCAC is established in conformity with the applicable laws and regulations;
  - (b) recruitment of staff for the NCAC is in conformity with the applicable laws and regulations;
  - (c) all material activities of the NCAC, as may be determined by the Executive Board from time to time, is regularly reported to the Executive Board; and
  - (d) all expenditures incurred and any obligation or agreement entered into by the NCAC is in compliance with the applicable laws and regulations, the Internal Rules and his/her roles and duties.

8.4 The Secretary General may be dismissed by the Executive Board for any of the following reasons:

- (a) failure to implement, meet and achieve the NCAC's goals and objectives or the policies set by the Executive Board;
- (b) conducting activities or having any financial or legal interests, or political or social affiliations that could discredit or impair the integrity of the NCAC and this extends to activities of 6 (six) degrees of relatives by consanguinity, spouse and 3 (three) degrees of relatives by affinity and business associates of the Secretary General;
- (c) acceptance of any position or appointment (whether political or otherwise), remuneration or title that would give the impression of impropriety or impairing his/her roles and performance or the integrity of the NCAC; or
- (d) any misconduct, including but not limited to, involvement in bribery, corruption, misappropriation, mismanagement or nepotism.

#### **Article 9. General Secretariat**

The General Secretariat shall perform, among other things, the following activities under the responsibility of the Secretary General:

- (a) case management:
  - a.1- performing the activities required by and in accordance with the Arbitration Rules of the NCAC; and
  - a.1- monitoring the schedules of cases and the flow of documents submitted or exchanged during the arbitration proceedings;
- (b) administration and finance:
  - b.1- charging and collecting from parties, the registration, administration and arbitrator fees;
  - b.2- keeping the registers of arbitrators and any other members of the NCAC and ensuring that the registers are up-to-date;
  - b.3- prepare the draft of the annual budget plan and the activities plan of the NCAC for 3 (three) years period; and
  - b.4- other activities similar to the general administration and finance work;
- (c) public relations, marketing and public awareness;
- (d) organization of the initial and continuing education and training for arbitrators;
- (e) organization of the education and training for relevant parties and the public;
- (f) filing and compiling documents;
- (g) collecting relevant information related to arbitration which may be useful for the members of NCAC;
- (h) initiating new work and organizing activities and projects in support of the NCAC;

- (i) providing secretarial services to NCAC members by charging fees in accordance with terms and conditions as may be determined by the Executive Board from time to time;
- (j) supporting any publication work of the NCAC and maintaining the website of the NCAC; and
- (k) performing works assigned to it by the Executive Board.

**Article 10. Staff of NCAC**

Each of the persons working for the NCAC as an employee, contractor, or consultant shall be responsible to the Secretary General for the due performance of his or her duties within the NCAC.

## CHAPTER 3

# Membership of NCAC

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### **Article 11. Members of the NCAC**

11.1 NCAC members are:

- (a) Arbitrator Members, who are qualified and registered with the NCAC under Article 12 below;
- (b) Legal Entity Members, which are qualified and registered with the NCAC under Article 13 below;
- (c) Individual Associate Members, who are qualified and registered with the NCAC under Article 14 below; and
- (d) Legal Entity Associate Members, which are qualified and registered with the NCAC under Article 15 below.

### **Article 12. Qualifications and Registration of Natural Persons as Arbitrator Members**

12.1 The qualification criteria for registration of a natural person as an Arbitrator Member with the NCAC are as follows:

- (a) being at least 30 (thirty) years old;
- (b) holding a bachelor's degree specialized in any field of study from any faculty in Cambodia or overseas;
- (c) having attended training courses on arbitration organized by the NCAC, or training courses organized by any professional commercial arbitration centre recognized by the NCAC; and
- (d) having passed an exam organized by the NCAC or by any commercial arbitration institution recognized by the NCAC.

- 12.2 Failing to fulfil all of the criteria in Article 12.1, a natural person may be registered as an Arbitrator Member if such applicant has any of the following qualification:
- (a) has acted as a member, duly registered as an arbitrator, for at least 2 (two) years at a professional commercial arbitration institution recognized by the NCAC;
  - (b) has acted as an arbitrator or representative in commercial arbitration proceedings on 3 (three) or more cases or have written at least 3 (three) commercial arbitral awards when acting as arbitrator;  
A natural person, who has the qualification determined under item (b) above, shall pass an exam organized by the NCAC or a commercial arbitration institution recognized by the NCAC; or
  - (c) has had a certificate of registration as an arbitrator at the NCAC and has maintained such membership at the NCAC for at least 2 (two) consecutive years from the date of registration.
- 12.3 Subject to approval by the General Assembly, the Executive Board may determine additional qualification criteria as it thinks appropriate and beneficial for the NCAC.
- 12.4 An Arbitrator Member shall not:
- (a) be an official or hold any title or position within the hierarchy of the executive, legislative or judiciary branches;
  - (b) have any of the circumstances referred to in Article 19.1 below be applicable or relevant to him or her.
- 12.5 Arbitrator Members shall have the right to:
- (a) be listed as an arbitrator registered with the NCAC;
  - (b) attend General Assembly meetings and vote on matters presented therein;
  - (c) be a member of any committee of the NCAC;
  - (d) be the candidate to be elected as the member of the Executive Board, or any other body of the NCAC;
  - (e) do other activities as provided for under the Law on Commercial Arbitration and the Sub-Decree No. 124.
- 12.6 The following procedure shall apply to the application for the registration of an Arbitrator Member:
- (a) the applicant shall submit his or her full and complete application and relevant contact details to the NCAC using Form A (available on the website and at the head office of the NCAC) together with documents demonstrating that the applicant fulfils the qualification criteria mentioned in Article 12.1 or Article 12.2 above, as the case may be and the evidence of payment of application fee as may be determined by the Executive Board from time to time;
  - (b) within 60 (sixty) calendar days after receipt of the full and complete application, the Membership Committee shall examine and review the application and submit its recommendation to the Executive Board for final approval. The Executive Board shall decide and inform the applicant in writing of its decision within 90 (ninety) calendar days after receipt of the application. If required, the Executive Board may extend the time

to inform the applicant whether the applicant fulfils the qualification criteria by 180 (one hundred and eighty) calendar days after its receipt of the application.

- (c) if the applicant does not fulfil the qualification criteria, the Executive Board shall inform the applicant the reasons thereof and allow the applicant a period of 30 (thirty) calendar days to submit further documents to demonstrate that the applicant does fulfil the criteria. Within 30 (thirty) calendar days after receipt of such documents, the Executive Board shall inform the applicant of its final decision;
- (d) if the Executive Board decides that the applicant fulfils the qualification criteria, the Secretary General shall inform the applicant that the applicant shall pay, in accordance with the Article 17 below, the full amount of the annual contribution for Arbitrator Members for the time being applicable. The Executive Board shall ensure that the General Secretariat registers the applicant as Arbitrator Members with the NCAC with effect from the first day of the month following receipt of the payment of the contribution until and including 31 December of that same year. The Secretary General shall inform the applicant thereof.

12.7 The following procedure shall apply to the application for renewal of the annual registration of an Arbitrator Member:

- (a) the NCAC shall renew the registration of an Arbitrator Member for the succeeding year upon the receipt of payment of the annual contribution unless:
  - a.1- the Arbitrator Member has informed the NCAC that he or she does not want to renew his or her registration as an Arbitrator Member;
  - a.2- the Arbitrator Member has not passed the exams for those training courses or programs that are required by the Executive Board for the current year;
  - a.3- 1 (one) or more of the circumstances referred to in Article 19.1 below is applicable or relevant to the Arbitrator Member involved; or
  - a.4- the Arbitrator Member has failed to submit a self-declaration in a form prescribed by the NCAC, and any other documents as may be determined by the Executive Board from time to time, asserting that all the qualifications and requirements applicable to him or her under the Internal Rules still remain satisfied;
- (b) if any information recorded with the NCAC is unclear or insufficient at any time, the NCAC may require the Arbitrator Members to furnish more information. In any event, the Arbitrator Members shall reply within 15 (fifteen) calendar days from the date of the request;
- (c) if the Arbitrator Member does not fulfil the aforementioned qualification criteria, the Executive Board shall not proceed to renew the registration. The Executive Board shall inform the Arbitrator Member and explain the reasons thereof. The Arbitrator Member shall have 30 (thirty) calendar days to state in writing and submit documents establishing the ground for the registration to be renewed for the following year. Within 30 (thirty) calendar days after receipt of such documents, the Executive Board shall inform the Arbitrator Member of its final decision;

- (d) if, following the procedure in this Article, the Arbitrator Member fulfils the qualification criteria, the Secretary General shall send an invoice to the Arbitrator Member for the amount of the annual contribution for the year for which renewal of registration is sought; the Executive Board shall ensure that, upon receipt in full of the annual contribution for the year for which renewal of registration, the General Secretariat renews the registration of the Arbitrator Member effective from 1 January of the year for which the renewal is sought.

### **Article 13. Qualifications and Registration of Legal Entities as Legal Entity Members of the NCAC**

13.1 The qualification criteria for registration of a legal entity as a Legal Entity Member with the NCAC are as follows:

- (a) the legal entity shall be any 1 (one) of the following categories of organizations:
  - a.1- the Bar Association of the Kingdom of Cambodia;
  - a.2- Chamber of Commerce of Cambodia; or
  - a.3- other business associations whose members are merchants, industrialists, traders or service providers;
- (b) it shall have been incorporated with legal personality under, and in accordance with, the applicable laws and regulations and shall have been registered with the Ministry of Commerce or any other authorized institutions;
- (c) under its corporate charter or bylaws, it shall have a clear system of governance with a board and members;
- (d) it shall have at least 20 (twenty) legal entities as members;
- (e) it shall be active in commercial matters as defined in Article 2 (i) of the Law on Commercial Arbitration; and
- (f) it shall be willing to contribute actively to the objectives and activities of the NCAC.

13.2 While examining the applications for Legal Entity Members, the Executive Board shall ensure that business associations or chambers as mentioned in Article 13.1 (a) to be admitted to the NCAC as Legal Entity Members shall collectively represent:

- (a) all important sectors of the economy of Cambodia (including, but not limited to, financial, manufacturing, construction or agriculture);
- (b) large, medium, small or micro businesses;
- (c) the entire territory of the country; and
- (d) Cambodian or foreign investors operating in Cambodia who currently are investing in Cambodia.

13.3 Legal Entity Members shall have the right, through their representatives, to:

- (a) attend General Assembly meetings and vote on matters presented therein;
- (b) be a member of any committee of the NCAC;

- (c) be the candidate to be elected as the member of the Executive Board, or any other body of the NCAC; and
  - (d) perform other activities as provided for under the Law on Commercial Arbitration and the Sub-Decree No. 124.
- 13.4 Each Legal Entity Member shall appoint 1 (one) natural person to serve as its representative, to act in the name of the respective Legal Entity Member in all matters of the NCAC, including representing the Legal Entity Member in the Executive Board or any committees, if appointed therein. The representative shall, among other things, attend, speak and vote in the meetings of the General Assembly. For the avoidance of doubt, such representative shall not be deemed a member of the NCAC.
- 13.5 The following procedure shall apply to the application for registration of a Legal Entity Member:
- (a) the applicant shall submit its full and complete application and relevant contact details to the NCAC using Form B (available on the website and at the head office of the NCAC) together with documents demonstrating that the applicant fulfils the qualification criteria mentioned in Article 13.1 above and the evidence of payment of application fee as may be determined by the Executive Board from time to time;
  - (b) within 60 (sixty) calendar days after receipt of the full and complete application, the Membership Committee shall examine and review the application and submit its recommendation to the Executive Board for final approval. The Executive Board shall decide and inform the applicant in writing of its decision within 90 (ninety) calendar days after receipt of the application. If required, the Executive Board may extend the time to inform the applicant of its final decision by 180 (one hundred and eighty) calendar days after its receipt of the application;
  - (c) if the applicant does not fulfil the qualification criteria, the Executive Board shall inform the applicant the reasons thereof and allow it a period of 30 (thirty) calendar days to submit further documents to demonstrate that it does fulfil the criteria. Within thirty (30) calendar days after receipt of such documents, the Executive Board shall inform the applicant of its final decision;
  - (d) if the Executive Board decides that the applicant fulfils the qualification criteria, the Secretary General shall inform the applicant that it shall pay, in accordance with Article 17 below, the full amount of the annual contribution for legal entities for the time being applicable. The Executive Board shall ensure that the General Secretariat registers the applicant as a Legal Entity Member with the NCAC with effect from the first day of the month following receipt of payment until and including 31 December of that same year. The Secretary General shall inform the applicant thereof.
- 13.6 The following procedure shall apply to the application for the annual renewal of a Legal Entity Member:
- (a) The NCAC shall renew the registration of a Legal Entity Member for the succeeding year upon the receipt of payment of the annual contribution unless:

- a.1- the Legal Entity Member has informed the NCAC that it does not want to renew its registration as Legal Entity Member;
  - a.2- 1 (one) or more of the circumstances referred to in Article 19.2 below is applicable or relevant to the Legal Entity Member involved; or
  - a.3- the Legal Entity Member or its representative has failed to submit a self-declaration in a form prescribed by the NCAC, and any other documents as may be determined by the Executive Board from time to time, asserting that all the qualifications and requirements applicable to it under the Internal Rules still remain satisfied.;
- (b) if any information registered with the NCAC is unclear or insufficient at any time, the NCAC may require the Legal Entity Member to furnish more information. In any event, the Legal Entity Member shall reply within 15 (fifteen) calendar days from the date of request;
  - (c) if the Legal Entity Member does not fulfil the aforementioned qualification criteria, the Executive Board shall not proceed to renew the registration. The Executive Board shall inform the Legal Entity Member and explain the reasons thereof. The Legal Entity Member shall have 30 (thirty) calendar days to state in writing and submit documents establishing the ground for its registration to be renewed for the following year. Within 30 (thirty) calendar days after receipt of such documents, the Executive Board shall inform the applicant of its final decision.
  - (d) if, following the procedure in this Article, the Legal Entity Member fulfils the qualification criteria, the Secretary General shall send an invoice to the Legal Entity Members for the amount of the annual contribution for the year for which renewal of registration is sought; the Executive Board shall ensure that, upon receipt in full of the annual contribution for the year for which renewal of registration, the General Secretariat renews the registration of the Legal Entity Member effective from 1 January of the year for which the renewal is sought.

#### **Article 14. Qualifications and Registration of Natural Persons as Individual Associate Members**

- 14.1. The qualification criteria for the registration of a natural person as an Individual Associate Member with the NCAC are as follows:
- (a) be at least 20 (twenty) years old;
  - (b) be enrolled as a student at a faculty in Cambodia or overseas or holding a bachelor's degree in any field of study from any faculty in Cambodia or overseas; and
  - (c) have none of the circumstances referred to in Article 19.1 below be applicable.
- 14.2. Individual Associate Members shall have the right to:
- (a) receive information distributed by the NCAC as may be determined by the Executive Board from time to time.
  - (b) attend events organized by the NCAC at a specific arrangement as may be determined by the Executive Board from time to time.

- (c) attend trainings organized by the NCAC at a preferential rate as may be determined by the Executive Board from time to time.
  - (d) have their names published in the lists in accordance with Article 18.
- 14.3. An Individual Associate Member shall not have the right to:
- (a) vote at any General Assembly meeting of the NCAC.
  - (b) be a member of any committee of the NCAC.
  - (c) be the candidate to be elected as the member of the Executive Board of the NCAC.
- 14.4. The following procedure shall apply to the application for the registration of an Individual Associate Member:
- (a) the applicant shall submit his or her full and complete application and relevant contact details to the NCAC using Form C (available on the website and at the head office of the NCAC) together with documents demonstrating that the applicant fulfils the qualification criteria mentioned in Article 14.1 above and the evidence of payment of application fee as may be determined by the Executive Board from time to time.
  - (b) within 60 (sixty) calendar days after receipt of the full and complete application, the Membership Committee shall examine and review the application and submit its recommendation to the Executive Board for final approval. The Executive Board shall decide and inform the applicant in writing of its decision within 90 (ninety) calendar days after receipt of the application. If required, the Executive Board may extend the time to inform the applicant of its final decision by 180 (one hundred and eighty) calendar days after its receipt of the application.
  - (c) if the applicant does not fulfil the qualification criteria, the application shall be rejected, but the applicant has the liberty to reapply for the registration.
  - (d) if the Executive Board decides that the applicant fulfils the qualification criteria, the Secretary General shall inform the applicant that the applicant shall pay, in accordance with Article 17 below, the full amount of the annual contribution for Individual Associate Members for the time being applicable. The Executive Board shall ensure that the General Secretariat registers the applicant as Individual Associate Members with the NCAC with effect from the first day of the month following receipt of the payment of the contribution until and including 31 December of that same year. The Secretary General shall inform the applicant thereof.
- 14.5. The following procedure shall apply to the application for the annual renewal of an Individual Associate Member:
- (a) the NCAC shall renew the registration of an Individual Associate Member for the succeeding year upon the receipt of payment of the annual contribution unless:
    - a.1- the Individual Associate Member has informed the NCAC that he or she does not want to renew his or her registration as Individual Associate Members; or

- a.2- 1 (one) or more of the circumstances referred to in Article 19.1 below is applicable or relevant to the Individual Associate Members involved.
- (b) if any information registered with the NCAC is unclear or insufficient at any time, the NCAC may require the Individual Associate Member to furnish more information. In any event, the Individual Associate Member shall reply within 15 (fifteen) calendar days from the date of request.
  - (c) if the Individual Associate Member does not fulfil the aforementioned qualification criteria, the Executive Board shall not proceed to renew the registration. The Executive Board shall inform the Individual Associate Members thereof and all decisions of the Executive Board are final and binding.
  - (d) if, following the procedure in this Article, the Individual Associate Member fulfils the qualification criteria, the Executive Board shall ensure that, upon receipt in full of the annual contribution for the year for which renewal of registration, the General Secretariat renews the registration of the Individual Associate Member effective from 1 January of the year for which the renewal is sought.

#### **Article 15 Qualifications and Registration of Legal Entities as Legal Entity Associate Members**

15.1. The qualification criteria for the registration of a legal entity as a Legal Entity Associate Member with the NCAC are as follows:

- (a) it shall have been incorporated with legal personality under and in accordance with the applicable laws and regulations and registered with the Ministry of Commerce or any other authorized institutions;
- (b) under its corporate charter or bylaws, it shall have a clear system of governance with a board and members; and
- (c) it shall be willing to contribute actively to the objectives and activities of the NCAC.

15.2. Legal Entity Associate Members shall have the right to:

- (a) receive information distributed by the NCAC as may be determined by the Executive Board from time to time.
- (b) attend events organized by the NCAC at the preferential rate as may be determined or varied by the Executive Board from time to time.
- (c) attend trainings organized by the NCAC at a specific arrangement as may be determined by the Executive Board from time to time.
- (d) have their names published in the lists in accordance with Article 18.

15.3. A Legal Entity Associate Member shall not have the right to:

- (a) vote at any General Assembly meeting of the NCAC.
- (b) be a member of any committee of the NCAC.
- (c) be on the Executive Board of the NCAC.

15.4. The following procedure shall apply to the application for the registration of a Legal Entity Associate Member:

- (a) the applicant shall submit its full and complete application and relevant contact details to the NCAC using Form D (available on the website and at the head office of the NCAC) together with documents demonstrating that the applicant fulfils the qualification criteria mentioned in Article 15.1 above and the evidence of payment of application fee as may be determined or varied by the Executive Board from time to time.
- (b) within 60 (sixty) calendar days after receipt of the full and complete application, the Membership Committee shall examine and review the application and submit its recommendation to the Executive Board for final approval. The Executive Board shall decide and inform the applicant in writing of its decision within 90 (ninety) calendar days after receipt of the application. If required, the Executive Board may extend the time to inform the applicant of its decision by 180 (one hundred and eighty) calendar days after its receipt of the application.
- (c) if the applicant does not fulfil the qualification criteria, the application shall be rejected, but the applicant has the liberty to reapply for the registration.
- (d) if the Executive Board decides that the applicant fulfils the qualification criteria, the Secretary General shall inform the applicant that the applicant shall pay, in accordance with Article 17 below, the full amount of the annual contribution for Legal Entity Associate Members for the time applicable. The Executive Board shall ensure that the General Secretariat registers the applicant as Legal Entity Associate Members with the NCAC with effect from the first day of the month following receipt of the payment of the contribution until and including 31 December of that same year. The Secretary General shall inform the applicant thereof.

15.5. The following procedure shall apply to the application for the annual renewal of a Legal Entity Associate Member:

- (a) the Executive Board shall renew the registration of Legal Entity Associate Member for the succeeding year upon the receipt of payment of the annual contribution unless:
  - a.1- the Legal Entity Associate Member has informed the NCAC that it does not want to renew its registration as a Legal Entity Associate Member; or
  - a.2- 1 (one) or more of the circumstances referred to in Article 19.2 below is applicable or relevant to the Legal Entity Associate Member involved.
- (b) if any information registered with the NCAC is unclear or insufficient at any time, the Executive Board may require the Legal Entity Associate Member to furnish more information. In any event, the Legal Entity Associate Member shall reply within 15 (fifteen) calendar days from the date of request.
- (c) if the Legal Entity Associate Member does not fulfil the aforementioned qualification criteria, the Executive Board shall not proceed to renew the registration. The Executive Board shall inform the Legal Entity Associate Member thereof and all decisions of the Executive Board are final and binding.

- (d) if, following the procedure in this Article, the Legal Entity Associate Member fulfils the qualification criteria, the Executive Board shall ensure, upon receipt in full of the annual contribution for the year for which renewal of registration, that the General Secretariat renews the registration of the Legal Entity Associate Member effective from 1 January of the year for which the renewal is sought.

#### **Article 16. Waiver of Time Limits**

The Executive Board may, for exceptional reasons, waive any of the time limits mentioned in Articles 12, 13, 14, and 15 above.

#### **Article 17. Contribution**

The annual contribution of the Arbitrator Members, Legal Entity Members, Individual Associate Members, and Legal Entity Associate Members shall be determined by, and may be varied by, the General Assembly from time to time. The General Assembly may delegate, from time to time, the authority to determine or to vary such annual contribution to the Executive Board while taking into consideration the needs and financial sustainability of the NCAC. The General Secretariat shall inform all members of the adjustment before the beginning of the applicable year.

Arbitrator Members, Legal Entity Members, Individual Associate Members and Legal Entity Associate Members that attain membership to the NCAC prior to or on 1 July of any given year shall be required to pay the full amount of the applicable annual contribution. Arbitrator Members, Legal Entity Members, Individual Associate Members and Legal Entity Associate Members that attain membership to the NCAC on 2 July or later of any given year, shall be required to pay half of the amount of the applicable annual contribution.

The annual contribution of the NCAC for Legal Entity Members shall be twice the annual contribution payable by the Arbitrator Members, and the annual contribution of Legal Entity Associate Members shall be twice the annual contribution payable by the Individual Associate Members.

#### **Article 18. Data and Lists**

- 18.1. All Arbitrator Members, Legal Entity Members, Individual Associate Members and Legal Entity Associate Members shall at all-time keep the General Secretariat informed of any changes in their relevant contact details.
- 18.2. The General Secretariat shall prepare and maintain 4 (four) separate lists of members of the NCAC:
- (a) 1 (one) list with all Arbitrator Members;
  - (b) 1 (one) list with all Legal Entity Members;
  - (c) 1 (one) list with all Individual Associate Members; and
  - (d) 1 (one) list with all Legal Entity Associate Members.

## **Article 19. Termination of Membership**

19.1. The Executive Board shall terminate the membership of any Arbitrator Member or any Individual Associate Member if such person:

- (a) becomes physically or mentally incapable of performing his or her duties;
- (b) is declared bankrupt or placed under liquidation proceedings;
- (c) submits his or her resignation in writing to the NCAC;
- (d) is convicted of a misdemeanor or felony;
- (e) breaches the Code of Conduct for Arbitrators or any other rules of the NCAC;
- (f) breaches the duty of confidentiality owed to the NCAC;
- (g) conducts activities or has any financial, political, legal or social affiliations that could discredit or impair the integrity of the NCAC;
- (h) dies; or
- (i) fails to pay his or her annual contribution within 60 (sixty) calendar days after receiving the invoice without reasonable justification.

19.2. The Executive Board shall terminate the membership of any Legal Entity Member or any Legal Entity Associate Member if such legal entity:

- (a) is placed under liquidation proceedings or dissolved;
- (b) submits its resignation in writing to the NCAC;
- (c) is convicted of a misdemeanor or felony;
- (d) breaches any rule of the NCAC;
- (e) breaches the duty of confidentiality owed to the NCAC;
- (f) conducts activities or has any financial, political, legal or social affiliations that could discredit or impair the integrity of the NCAC;
- (g) is declared bankrupt; or
- (h) fails to pay its annual contribution within 60 (sixty) calendar days after receiving the invoice without reasonable justification.

## **Article 20. Procedure for Termination of Membership**

20.1. In the case of Article 19.1 (b), (c), (d) and (h) and Article 19.2 (a), (b), (c) and (g), the decision by the Executive Board shall be automatic and have immediate effect. In all other cases, the Executive Board shall give the concerned member of the NCAC the reasons in writing of its intended decision to terminate the concerned membership with the NCAC and give the concerned member of the NCAC 30 (thirty) calendar days to submit an explanation in writing. The membership shall be terminated if the concerned member of the NCAC fails to give a satisfactory explanation within the mentioned period.

In all other cases of Article 19.1 and Article 19.2 above, the Executive Board shall submit its intention to terminate and the explanation of the natural person or legal entity to the Disciplinary Committee mentioned in Article 34.3 below which shall render advice to the Executive Board within 30 (thirty) calendar days. The Executive Board shall make a final decision after taking the advice of the Disciplinary Committee into consideration.

## **Article 21. Effect of Non-Renewal and Termination of Membership**

When a membership is terminated or not renewed, the former member shall have no access to any General Assembly meetings, nor be permitted to vote. The former member's name and other data shall be removed from the relevant list of the members of the NCAC. If the former member or its representative is also a member of the Executive Board or of any committee of the NCAC, the former member's membership of the Executive Board or such committee shall be terminated automatically.

If, at the time the Arbitrator Member loses membership of the NCAC, and such an Arbitrator Member is acting as an arbitrator in an arbitration proceeding before the NCAC, the General Secretariat shall inform the parties and the other members of that arbitral tribunal of the arbitrator's loss of membership and, where appropriate, the reasons thereof. The parties shall have the liberty to elect, to retain, or remove such arbitrator from the arbitral proceeding in accordance with the Arbitration Rules of the NCAC.

## **Article 22. Withdrawal of Representative**

22.1. The Legal Entity Member or Legal Entity Associate Member shall withdraw its respective representative and appoint another representative within 60 (sixty) calendar days, if any of the following events are applicable to its representative:

- (a) the representative becomes physically or mentally incapable of performing his or her duties;
- (b) the representative is declared bankrupt or placed under liquidation proceedings;
- (c) the representative is convicted of a misdemeanor or felony;
- (d) the representative breaches any rule of the NCAC;
- (e) the representative breaches the duty of confidentiality owed to the NCAC;
- (f) the representative conducts activities or has any financial, political, legal or social affiliations that could discredit or impair the integrity of the NCAC;
- (g) the representative dies; or
- (h) the representative resigns as the representative.

22.2. If the Legal Entity Member or Legal Entity Associate Member fails to comply with Article 22.1, and no reasonable justification is provided to the Executive Board, the membership of relevant Legal Entity Member or Legal Entity Associate Member shall be deemed terminated.

## CHAPTER 4

# General Assembly

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### **Article 23. Authority of General Assembly**

The General Assembly of the NCAC shall consist of all the members of the NCAC who are entitled to vote. For the avoidance of doubt, members of the NCAC who are entitled to vote are members who had fully paid all their annual contribution to NCAC.

The General Assembly has the following functions:

- (a) to discuss and approve the annual management report of the Executive Board and the audited annual financial report of the NCAC in respect of the preceding financial year;
- (b) to discuss and approve the annual budget for the then current financial year and the budget for the first quarter of the following financial year;
- (c) to elect and remove the members of the Executive Board;
- (d) to adopt and, where necessary, amend the Internal Rules and other rules of the NCAC;
- (e) to adopt and, where necessary, amend the Arbitration Rules of the NCAC, the fee schedule for arbitration proceedings and the Code of Conduct for Arbitrators;
- (f) to adopt and, where necessary, amend the registration procedure for natural persons and legal entities, including the qualification criteria for registration, and to determine the fees payable by the members of the NCAC; and
- (g) as deemed necessary, to delegate any of its rights to the Executive Board.

## **Article 24. Meetings of the General Assembly**

24.1. An annual General Assembly meeting shall be held once every year (the “Annual General Assembly Meeting”) in the first quarter of each calendar year, on a date as may be determined by the Executive Board from time to time. In view of exceptional circumstances and necessary, the Executive Board may set the date of the Annual General Assembly Meeting outside the first quarter of the calendar year. The notice of the Annual General Assembly Meeting, including the date, the time, the venue and the agenda of the meeting, shall be given to all members of the NCAC entitled to vote at least 30 (thirty) calendar days prior to the date of the meeting.

In view of exceptional circumstances and necessary, the Executive Board may determine to hold the Annual General Assembly Meeting remotely by video conference or using other electronic communication technology with participants in one or more geographical places.

If the Annual General Assembly Meeting vote to elect and remove the members of the Executive Board, the Annual General Assembly Meeting shall be held in person and by proxy unless decide otherwise by the Executive board based on exceptional circumstances and necessary.

24.2. The chairman of the Executive Board (the “Chairman”) or a majority of the members of the Executive Board can propose that an extraordinary meeting of the General Assembly to be held an extraordinary general assembly meeting (the “Extraordinary General Assembly Meeting”). Upon such proposal, the Chairman of the Executive Board shall give notice of the Extraordinary General Assembly Meeting, including the date, the time, the venue and the agenda of the meeting, to all members of the NCAC entitled to vote at least 10 (ten) calendar days prior to the meeting. If the Chairman of the Executive Board does not convene the Extraordinary General Assembly Meeting within 90 (ninety) calendar days after the date of receipt of the proposal referred above, the members of the Executive Board who call for the Extraordinary General Assembly Meeting may hold the Extraordinary General Assembly Meeting after giving 30 (thirty) calendar days’ notice, including the date, the time, the venue and the agenda of the meeting, to all members of the NCAC entitled to vote. The notice and agenda shall also be posted on the information board of the NCAC, the NCAC website, or conveyed by any other means as the Executive Board deems appropriate under such circumstances.

24.3. Meetings of the General Assembly shall be chaired by the Chairman of the Executive Board or, in his or her absence, by the Vice-Chairman of the Executive Board.

24.4. Any documents pertaining to items mentioned in the agenda for a meeting of the General Assembly shall be sent to all members of the NCAC entitled to vote at least 15 (fifteen) calendar days prior to the date of that meeting. Meetings of the General Assembly shall only be attended by those members of the NCAC entitled to vote and the Secretary General. Each member of the NCAC entitled to vote shall have 1 (one) vote. The Secretary General shall have the right to speak but not the right to vote. The Secretary General shall leave the meeting if the majority of the members of the NCAC entitled to vote who are present, either in person or by proxy, so requests.

The Executive Board may invite 1 (one) or more persons to attend a meeting (or part thereof) for a specific purpose.

- 24.5. A member of the NCAC who is entitled to vote but cannot attend a particular meeting of the General Assembly may give a written proxy to another member of the NCAC entitled to vote to represent him or her at that meeting and vote in his or her name. Any member of NCAC entitled to vote can hold a proxy of no more than 1 (one). The proxy shall be mentioned in and attached to the minutes of the meeting.

For the avoidance of doubt, a Legal Entity Member does not have to give a proxy to its representative.

- 24.6. Quorum for holding a General Assembly shall be the presences of at least 2/3 (two-thirds) of all members of the NCAC entitled to vote, in person or by proxy. In the event that the quorum is not met, the meeting shall be adjourned for 14 (fourteen) calendar days at the same time, venue and agenda as the previous meeting. Quorum for the first adjournment shall be the presences of half (1/2) of all the members of the NCAC entitled to vote, in person and by proxy.

In the event that the required quorum at the first adjournment is not met, the meeting shall be adjourned for a further period of 14 (fourteen) calendar days at the same time, venue and agenda of the previous meeting. If the last mentioned quorum is not present, those who are present, in person or by proxy, at the second adjournment of the meeting shall form a quorum.

- 24.7. All decisions or resolutions of the meetings of the General Assembly shall require a majority votes cast in that meeting of fifty percent plus one (50% +1) for such decision or resolution to be validly adopted.

In case the Annual General Assembly Meeting is to be held remotely by video conference or using other electronic communication technology with participants in one or more geographical places in accordance with Article 24.1, the presence of members of the NCAC entitled to vote through videoconference or such electronic communication technology and proxy shall be counted for the purpose of determining the quorum as required above paragraph.

- 24.8. All members of the NCAC entitled to vote are present in person at any meeting of the General Assembly can:

- (a) adopt decisions about matters that were not mentioned in the agenda for the meeting; and
- (b) adopt decisions even if the meeting has not been properly convened, in accordance with the applicable procedures.

- 24.9. Voting shall take place by secret ballot unless the General Assembly chooses to vote by raising hand. General Assembly's decision to vote by raising hand shall be made by raising hand.

In case the Annual General Assembly Meeting is to be held remotely by video conference or using other electronic communication technology with participants in one or more geographical places in accordance with Article 24.1, voting shall take place by raising hand or other electronic means of voting that can guarantee integrity of the voting.

24.10. The Chairman shall designate at least 1 (one) person from those who are present at any meeting of the General Assembly or from those who work at the General Secretariat of the NCAC to keep its minutes. Any minutes shall include the date, the time and the venue of the meeting, the names of those present, the proxies and the resolutions or decisions adopted or rejected. The minutes shall also state the number of votes for such resolution. The minutes of any meeting shall be signed by the Chairman and the person who keeps the minutes.

## CHAPTER 5

# Executive Board

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### Article 25. Executive Board and Authority

25.1. The NCAC shall establish an Executive Board, which has following roles and responsibilities:

- (a) administering and deciding the day-to-day operations of the NCAC;
- (b) formulating and adopting the policies of the NCAC;
- (c) preparing, reviewing and amending rules and procedures of the NCAC;
- (d) organizing and overseeing training and professional development activities for the arbitrators of the NCAC;
- (e) appointing and overseeing performances of the Secretary General and the General Secretariat as a whole;
- (f) determining the number of recruitments, working conditions, wages, other secondary benefits, disciplinary actions and other conditions applicable to the staff of the General Secretariat;
- (g) establishing, adopting and amending from time to time, the mechanisms and procedures for scrutinizing arbitration awards;
- (h) reviewing and monitoring the financial position of the NCAC on the basis of monthly, quarterly and annual financial reports prepared by the Secretary General in accordance with the rules applicable to the financial and administrative operation of the NCAC;
- (i) preparing and submitting the following documents to the General Assembly for approval:
  - i.1- the annual financial report of the NCAC for the preceding financial year;

- i.2- the annual budget for the then current financial year and the budget for the first quarter of the following financial year; and
  - (j) implementing the decisions of the General Assembly.
- 25.2. The Executive Board reports to the General Assembly regarding its annual activities and decisions.
- 25.3. In executing its duties referred to in Article 25.1 above, the Executive Board may take any necessary decision on any matter that is not under the authority of the General Assembly provided that such decision is in accordance with the applicable laws.
- 25.4. In order to assist the performance of its roles and duties, the Executive Board shall establish the Appointment and Proceedings Committee, the Disciplinary Committee, the Education Committee and the Membership Committee whose functions and memberships are set forth under the Internal Rules. The Executive Board may also establish any other committees, as it deems necessary.
- 25.5. If the General Assembly resolves to reject any action taken by the Executive Board, such rejection shall only be effective prospectively and shall have no retrospective effect.

#### **Article 26. Number of Members and Composition of the Executive Board**

The Executive Board shall be composed of an odd number of members and shall neither have more than 7 (seven) nor less than 5 (five) members. The General Assembly may decide on the number of the members of the Executive Board of the following term prior to the termination of each 3 (three) years mandate of the Executive Board.

#### **Article 27. Reimbursement of Expenses and Allowance**

The members of the Executive Board will receive no wage but may receive reimbursement of, or an allowance for, necessary expenses according to rules adopted by the Executive Board.

#### **Article 28. Meetings of the Executive Board**

- 28.1. The Executive Board convenes monthly. The Executive Board shall determine the date, the time, and the venue of its meeting for the following month.  
  
The meetings of the Executive Board can be held in person or remotely by videoconference or using other communications technology with participants in one or more geographical places or in a combined form.
- 28.2. The agenda of the following monthly meeting shall be separately communicated to the members of the Executive Board at least 7 (seven) calendar days prior to the meeting.
- 28.3. If the agenda for the following monthly meeting of the Executive Board is not necessary and urgent for a discussion on the determined date of the meeting, by a fifty percent plus one (50% +1) vote cast by all members of the Executive Board, that scheduled meeting may be postponed to the next month. In all cases, the Executive Board shall meet at least once every 3 (three) months.

The Chairman of the Executive Board may, at any time, call for an additional meeting of the Executive Board by giving all members of the Executive Board written notice, including the date, the time, the venue and the agenda, at least 7 (seven) calendar days prior to the meeting.

- 28.4. Meetings of the Executive Board shall be attended only by the members of the Executive Board. Each member of the Executive Board shall have 1 (one) vote. A majority of the members of the Executive Board may invite 1 (one) or more persons, including but not limited to the Secretary General, to attend a meeting (or part thereof) for a specific purpose.
- 28.5. A member of the Executive Board who cannot attend a particular meeting may give a written proxy to another member of the Executive Board to represent him or her at that meeting and vote in his or her name. Any member cannot act as a proxy of more than 1 (one) other member of the Executive Board at a time. The proxy shall be mentioned in, and attached to, the minutes of the relevant meeting.
- 28.6. For the avoidance of doubt, a Legal Entity Member who is a member of the Executive Board does not have to give a proxy to its representative.
- 28.7. A quorum for holding a meeting of the Executive Board shall be the presences of at least 2/3 (two-thirds) of all members of the Executive Board, in person or by proxy.

In case the meeting of the Executive Board is to be held remotely by videoconference or using other electronic communication technology with participants in one or more geographical places or in a combine form together with the participation of members of Executive Board join in person in accordance with Article 28.1, the presence of members of Executive Board in person or through videoconference or such electronic communication technology and proxy shall be counted for the purpose of determining the quorum as required above paragraph.

- 28.8. All decisions or resolutions of the Executive Board shall require a majority of the votes cast both in person and by proxy in that meeting of fifty percent plus one (50% +1) for such decision or resolution to be validly adopted. In case of an equality of votes, the Chairman shall have the casting vote. Voting shall take place orally or by hand but if a member of the Executive Board so requests, by secret ballot.
- 28.9. If all members of the Executive Board are present in person at a meeting, they can:
- (a) adopt decisions about matters that were not mentioned in the agenda for the meeting; and
  - (b) adopt decisions even if the meeting has not been properly convened, in accordance with the applicable procedures.

In case the meeting of the Executive Board is to be held remotely by videoconference or using other electronic communication technology with participants in one or more geographical places or in a combine form together with the participation of members of Executive Board in accordance with Article 28.1, voting shall take place by raising hand or other electronic means of voting that can guarantee integrity of the voting.

- 28.10. Decisions and resolutions cannot be taken or adopted outside a meeting, except if they are made or adopted in writing and signed by all members of the Executive Board. Each resolution may be issued in multiple counterparts. All counterparts shall, taken together, constitute an original resolution of the Executive Board.
- 28.11. Meetings of the Executive Board shall be chaired by the Chairman or in his absence by the Vice-Chairman.
- 28.12. The Chairman shall appoint at least 1 (one) of the persons to keep its minutes. Any minutes shall include the date, the time and the venue of the meeting, the names of those present, the proxies given and the resolutions or decisions adopted or rejected with the number of votes stated. The minutes of any meeting shall be discussed at the following meeting and after any corrections and approval thereto, be signed by the Chairman of the meeting and the minutes taker of that meeting.

### **Article 29. Nomination and Election of Members of the Executive Board**

- 29.1. Members of the Executive Board are elected by the General Assembly for a term of three (3) years, during its annual meeting from among all members of the NCAC entitled to vote. No member of the Executive Board can serve more than 2 (two) terms. All members of the Executive Board, except the Treasurer, may serve 2 (two) consecutive terms.
- 29.2. Arbitrator Members or Legal Entity Members can stand for election to become a member of the Executive Board if they fulfil the following nomination criteria:
- (a) a candidate shall be nominated by 2 (two) other members of the NCAC entitled to vote;
  - (b) the candidate shall consent to the nomination;
  - (c) the nomination and the consent must be made in writing on a nomination form signed by the 3 (three) parties involved;
  - (d) no member of the NCAC can participate in the nomination of more than 1 (one) candidate; and
  - (e) any member of the NCAC who nominate a candidate cannot stand as a candidate, while a member of the NCAC who stands as a candidate cannot nominate any candidate.
- 29.3. Within 60 (sixty) calendar days prior to the date fixed for the Annual General Assembly Meeting in which the election of members of the Executive Board will take place, the Executive Board shall determine and announce to all natural persons or legal entities who are entitled to vote:
- (a) the nomination date of candidates for the Executive Board with the nomination forms attached;
  - (b) the election date (being the date of the Annual General Assembly Meeting) which shall be no less than 21 (twenty-one) calendar days after the closing date of the nomination of the candidates; and
  - (c) the time and the venue where the Annual General Assembly Meeting and the election shall be held.

- 29.4. The completed and signed nomination forms must be received by the General Secretariat no later than the nomination date. The outgoing Executive Board shall review the nomination forms and decide whether the forms comply with Article 29.2 above. The Executive Board shall allow 2 (two) working days to remedy any nomination forms that are not in compliance with Article 29.2 above. The outgoing Executive Board shall reject any nomination forms not so remedied with explanation sent to the proposers and the nominee.
- 29.5. If the number of candidates who fulfil the nomination criteria is lesser than or equal to the number of positions in the Executive Board, as may be determined or varied by the General Assembly in accordance with Article 26 above, the nomination shall be adjourned for 15 (fifteen) calendar days to the adjourned nomination date, and the same nomination procedure and criteria set out above shall apply. If it appears on the adjourned nomination date, that the number of candidates for whom the nomination criteria have been fulfilled remains lesser than or equal to the number of positions in the Executive Board, all of these candidates shall be automatically elected. In such case the General Assembly may, at a suitable time, nominate and elect additional candidates until all positions of the Executive Board are filled, in accordance with Article 30.3 below.
- 29.6. If the number of candidates who fulfil the nomination criteria is more than the number of positions up for election in the Executive Board, the Executive Board shall send a list with the names of the candidates and, for the legal entities the names of their representatives, to all members of the NCAC entitled to vote at least 7 (seven) calendar days prior to the election date.
- 29.7. The election of the Executive Board shall be held by secret ballot on the ballot papers issued by the General Secretariat at the Annual General Assembly Meeting.
- 29.8. At the Annual General Assembly Meeting, the following election rules shall apply:
- (a) each ballot paper shall list the respective name of each candidate in alphabetical order, as expressed in the Latin alphabet, along with the respective name in Khmer. For the legal entities, the names of the legal entities and their respective representatives shall be written.
  - (b) each member of the NCAC entitled to vote (including the candidates) may cast 1 (one) vote for each position in the Executive Board.
  - (c) no member of the NCAC may cast more than 1 (one) vote for any individual candidate.
  - (d) vote by proxy is permitted, provided that a proxy can only be given to another member of the NCAC entitled to vote. Any member of the NCAC entitled to vote can hold only 1 (one) proxy. The proxy shall be made in writing and noted in the minutes of the meeting.
  - (e) The election commission shall call the name of the natural persons or legal entities who are entitled to vote in the alphabetical order of their respective name as expressed in the Latin alphabet to cast their respective votes.
  - (f) to cast the votes, the member of the NCAC entitled to vote shall place a check mark (✓) or a cross (✗) in the squares that correspond to the candidates that he or she chooses.

- (g) the natural persons or legal entities who cast their votes shall deposit their ballot paper in a sealed ballot box.
- 29.9. The election commission shall count the number of votes cast for each candidate and record the number of votes behind the name of each candidate on a form determined by the General Secretariat. The following rules shall apply:
- (a) if a ballot paper shows more votes than the positions in the Executive Board up for election, all votes on that ballot paper shall be disregarded.
  - (b) if a ballot paper shows fewer votes than the positions in the Executive Board up for election, the ballot paper and all votes on that ballot paper shall be valid and be counted.
  - (c) any vote that has been marked with any symbol other than as mentioned in Article 29.8 (f) above shall be disregarded.
- 29.10. The election commission shall list the names of the candidates in alphabetical order (according to their respective name in the Latin alphabet). The candidates who receive the most votes and equal to the number of positions on the Executive Board shall be elected.

If the list of elected candidates cannot be made because 2 (two) or more candidates received the same number of votes, a second voting round shall be held among those candidates who received the same number of votes during the same Annual General Assembly Meeting. If the candidates receive the same number of votes in the second round, the oldest candidate shall be elected (whereby, if the candidate is a Legal Entity Member, the age of the representative shall be the deciding factor).

The election commission shall immediately thereafter announce the election results in the Annual General Assembly Meeting and shall subsequently notify all members of the NCAC, as well as publicly display, of the results.

Subject to any election rules adopted by the Executive Board, the newly elected members of the Executive Board shall take office 15 (fifteen) calendar days after the confirmation of their election.

- 29.11. The Executive Board may appoint an election commission to oversee the nomination and election process described in this Article. The appointed election commission shall adopt election rules that prescribe the procedure for the nomination and election of members of the Executive Board in accordance with the Internal Rules.

### **Article 30. Termination of Membership of the Executive Board**

- 30.1. A member of the Executive Board, who is an Arbitrator Member, shall vacate his or her position if such person:
- (a) becomes physically or mentally incapable of exercising his/her functions;
  - (b) is convicted of any misdemeanor or felony;
  - (c) is absent from 3 (three) consecutive meetings without any justifiable reason;
  - (d) is declared bankrupt by the court;
  - (e) resigns in writing from the Executive Board;

- (f) ceases to be a member of the NCAC;
  - (g) is no longer an appointed representative of a Legal Entity Member; or
  - (h) dies.
- 30.2. A member of the Executive Board, which is a Legal Entity Member, shall vacate its position in any of the following events:
- (a) if it is convicted of any misdemeanor or felony;
  - (b) if it is absent from 3 (three) consecutive meetings without a justifiable reason;
  - (c) if it is declared bankrupt by the court or placed under liquidation proceedings or dissolved;
  - (d) if it resigns in writing from the Executive Board;
  - (e) if it ceases to be a representative of the Legal Entity Member; or
  - (f) if it ceases to be a member of the NCAC.
- 30.3. If any member of the Executive Board loses his or her membership in the Executive Board for any reason, the Chairman shall convene an Extraordinary General Assembly Meeting to elect a new member to the Executive Board. Election of a new member for the vacant membership of the Executive Board shall comply with Article 29, except that references to positions in the Executive Board shall be read referring to the vacant positions in the Executive Board. The newly elected member shall complete the remaining term of the outgoing member.

### **Article 31. Office Holders and Their Election**

31.1. The Executive Board shall have:

- (a) 1 (one) Chairman;
- (b) 1 (one) Vice-Chairman;
- (c) 1 (one) Treasurer; and
- (d) a maximum of 4 (four) other members.

The General Assembly shall determine the number of members of the Executive Board in accordance with the foregoing. The Chairman of the Executive Board is the Chairman of the NCAC and duly represents the NCAC. The Vice-Chairman shall assist the Chairman and replace the Chairman during his absence.

The Treasurer shall oversee the financial management by the Secretary General or authorized staff of the General Secretariat, including the collection of revenues and the payment of expenditures, and shall be responsible for internal financial control of the NCAC.

31.2. The majority of the members of the Executive Board shall be Cambodian nationals. The Chairman and the Treasurer shall be Cambodian nationals.

31.3. The Chairman, the Vice-Chairman and the Treasurer shall be elected separately by the Executive Board from among its members at the first meeting of the 3 (three) years term for which the Executive Board is elected.

- 31.4. The Chairman shall be elected by a majority of the votes cast. If no candidate is so elected, the meeting shall be adjourned for a period of no more than 15 (fifteen) calendar days for a second voting round in which only the 2 (two) candidates who received the most votes or only the 2 (two) or more candidates received the same number of votes in the first round, can stand for election in the second round. The candidate who receives the most votes in the second round shall be elected. If candidates receive the same number of votes in the second round, the oldest candidate shall be elected and if the candidate is a Legal Entity Member, the age of the representative shall be the deciding factor.
- 31.5. Vice-Chairman and Treasurer shall be elected by a majority vote cast in the meeting. In the event of an equality of votes, the oldest members shall be elected and if the candidate is a Legal Entity Member, the age of its representative shall be the deciding factor.
- 31.6. If any intermediate vacancy occurs in respect of the office of Chairman, Vice-Chairman or Treasurer for any reason whatsoever, the Executive Board shall elect 1 (one) of its members to fill the vacancy in accordance with the procedures of this Article. That person shall complete the remaining term of the aforesaid vacancy.

## CHAPTER 6

# Committees

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### **Article 32. Authority to Create Committees**

The Executive Board may, by a majority vote of fifty percent plus one (50% +1) of the Executive Board, establish committees or sub-committees to conduct certain assignments or projects. The Executive Board may determine or vary from time to time the organization structure and duties of such committees or sub-committees.

### **Article 33. General Provisions on Committees**

- 33.1. Unless otherwise determined by the Executive Board, each committee shall consist of at least 3 (three) members and 3 (three) reserve members. Such number of members of each committee may be changed from time to time as the Executive Board may deem necessary. The reserve members of each committee shall be called upon on a rotating basis, and only in the event that a member is unavailable to perform his or her roles and responsibilities.
- 33.2. The members and reserve members of a committee are appointed by the Executive Board. Members or reserve members of any one committee cannot be members or reserve members of another committee. The appointment of the Committees shall always consist of at least 1 (one) Arbitrator Member and the Executive Board shall use its best efforts to appoint 1 (one) Legal Entity Member subject to availability.
- 33.3. The term for committee members and reserve members shall be 3 (three) years. Committee members and reserve members may serve no more than 2 (two) consecutive terms in each committee. Committee members and reserve members having served 2 (two) consecutive terms may be reappointed after 1 (one) term of absence from any of the committees.

- 33.4. The members and reserve members of each committee shall be changed on a rotating basis with at least 2 (two) members or reserve members, but no more than 4 (four) members or reserve members, being changed every 1 (one) year, unless otherwise determined by the Executive Board from time to time.
- 33.5. The members of each committee shall elect a secretary from among themselves. The chairman of all committees shall be a member of the Executive Board. Each committee shall keep records of all its meetings and of its decisions stating the reasons thereof, and it shall send copies of its records to the Executive Board.
- 33.6. Members and reserve members of each committee are under a strict obligation to disclose any potential conflict of interest relating to the exercise of their role or function in the committee to the Executive Board. Members and reserve members shall recuse themselves from any decision in which the likelihood of impartiality is objectively determined to exist.
- 33.7. In reference made to the advice from the Disciplinary Committee, the Executive Board may dismiss a member or reserve member of any committee for any reason, particularly if there is doubt as to the integrity with respect to the member's or reserve member's performance as a member or reserve member of the committee. Failure to disclose a conflict of interest shall be a ground for dismissal.
- 33.8. If a member or reserve member of any committee has lost his or her position, the Executive Board shall appoint, within 30 (thirty) calendar days, a new member or reserve member, as the case may be, that has been removed.
- 33.9. Decisions of any committee can only be made by a majority of its members. Members and reserve members cannot give proxies to any person.
- 33.10. The Executive Board may issue further rules regarding the operation and procedures for the functioning of each committee.

#### **Article 34. Creation and Functions of Committees**

- 34.1. The following committees shall be created to assist the operation and performance of the Executive Board:
- (a) Appointment and Proceedings Committee;
  - (b) Disciplinary Committee;
  - (c) Education Committee; and
  - (d) Membership Committee.
- 34.2. The Appointment and Proceedings Committee shall have the following duties and functions:
- (a) to appoint arbitrators in accordance with the Arbitration Rules of the NCAC;
  - (b) to decide on plea on jurisdiction of the NCAC in accordance with the Arbitration Rules;
  - (c) to decide on application for Expedited Procedure in accordance with the Arbitration Rules;

- (d) to decide on application for Emergency Arbitrator in accordance with the Arbitration Rules;
  - (e) to render advice to the Executive Board at its request on matters relating to the appointment process under the Arbitration Rules of the NCAC; and
  - (f) to carry out such additional functions as the Executive Board may request.
- 34.3. The Disciplinary Committee shall have the following duties and functions:
- (a) to render advice to the Executive Board regarding Article 19 and Article 30 above, and any other rules of the NCAC in respect to any disciplinary sanction to be imposed against any member of the NCAC;
  - (b) to render advice to the Executive Board, at its request, on matters relating to disciplinary sanctions; and
  - (c) to carry out such additional functions as the Executive Board may request.
- 34.4. The Education Committee shall have the following duties and functions:
- (a) to render advice to the Executive Board regarding the development of policies relating to education and training programs, including initial and continuing professional development for the members of the NCAC in accordance with the Law on Commercial Arbitration, the Sub-Decree No. 124 and any other applicable rules;
  - (b) to render advice to the Executive Board regarding the accreditation of commercial arbitration institution, education and training programs; and
  - (c) to carry out such additional functions as the Executive Board may request.
- 34.5. The Membership Committee shall have the following duties and functions:
- (a) to review all membership applications in accordance with the Internal Rules and submit the applications, along with its advice to the Executive Board;
  - (b) to render advice to the Executive Board at its request on matters relating to the membership process under the Internal Rules; and
  - (c) to carry out such additional functions as the Executive Board may request.



## CHAPTER 7

# Confidentiality of the NCAC

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### **Article 35. Confidentiality Obligation**

Unless otherwise determined by the Executive Board, the work and performance of the NCAC, as set forth in the Internal Rules, is of confidential nature which must be respected by everyone who participates in that work and performance in whatever capacity.

### **Article 36. Participants of the NCAC's Works and Conducts**

Participants of the work and performance of the NCAC shall refer to the persons who participate in the work and activities of the members of the Executive Board, the Secretary General, all staff of the General Secretariat, all members of each committee and all persons, whether natural or legal entity, who have been invited to participate in the work and performance of the NCAC.



## CHAPTER 8

# Advisory Council

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### **Article 37. Advisory Council – Purposes and Functions**

- 37.1. The NCAC has an Advisory Council. The Advisory Council is to provide information and expert advice to the NCAC on relevant issues, developments and trends, including with regard to international arbitration regulations, policies and best practices; national and international law and ADR mechanisms; business and commercial practices; institution building and management; and training and professional development.
- 37.2. The Advisory Council may provide its advice at the request of the Executive Board. The role of the Advisory Council is solely to provide advice to the NCAC and it will not be responsible for the implementation of any activities of the NCAC.
- 37.3. At the request of the Executive Board, the Advisory Council may also provide technical assistance and public relations or undertake other functions as may be determined, to the extent that any such additional functions are consistent with NCAC's objectives.

### **Article 38. Advisory Council – Membership and Meetings**

- 38.1. The Executive Board may invite, at its discretion, national or foreign individuals of outstanding reputation and with considerable experience and expertise in relevant areas to become advisors who are the members of the Advisory Council.
- 38.2. Members of the Advisory Council will act on a voluntary and free of charge basis to offer their expertise and advice, either individually or collectively, to the NCAC. Travel expenses and other reasonable expenses may be reimbursed if there is a prior approval from the Executive Board.

- 38.3. If a member of the Advisory Council wishes to resign from the Advisory Council, the member shall issue a letter of resignation to the Executive Board.
- 38.4. The Executive Board may call meetings, either in person, by telephone or video conference, of the entire Advisory Council, or any part thereof, as it deems appropriate or necessary. Any such meetings will be facilitated and chaired by a member of the Executive Board or the Secretary General.



CHAPTER 9

## Recognition of Foreign Commercial Arbitration Centres

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**Article 39. Foreign Commercial Arbitration Centres**

- 39.1. The Executive Board may, at its own initiative, recognize foreign commercial arbitration centres as referred to in Article 29 of the Sub-Decree No. 124, the Internal Rules or other rules issued by the NCAC by taking into account any of the following criteria:
- (a) the centre has been in existence and been functioning as a commercial arbitration centre for at least 10 (ten) years prior to the date of the proposal and during said 10 (ten) years there at least 50 (fifty) arbitration proceedings have been administered or facilitated by the centre;
  - (b) at the Executive Boards discretion, the foreign commercial arbitration centre offers reciprocal recognition of the NCAC; or
  - (c) any other criteria that the Executive Board may deem necessary on a case-by-case basis.
- 39.2. If the Executive Board becomes aware that the foreign arbitration centre no longer fulfils the criteria mentioned in Article 39.1 above, or for any other reason the Executive Board deems appropriate, the Executive Board shall withdraw the recognition.
- 39.3. The Executive Board shall keep a list of foreign commercial arbitration centres that it recognizes. If the recognition of a centre is withdrawn, it shall delete the name of the centre from the list.

## CHAPTER 10

# Authority to Represent the NCAC

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### **Article 40. Authority to Represent and Legally Bind the NCAC**

40.1. Only the following persons in the following cases shall have the authority to represent and legally bind the NCAC:

- (a) by resolution of the majority of the Executive Board, the Chairman shall have the authority to represent and legally bind the NCAC in all matters.
- (b) the NCAC shall also be legally bound by the joint signatures of the Secretary General and the member of the General Secretariat in charge of financial matters in the following cases:
  - b.1- the entering into of any obligation or contract (or series of related obligations or contracts) with an aggregate monetary value of no more than the Executive Board may determine from time to time (or its equivalent in another currency) as provided in a separate decision adopted by the Executive Board.
  - b.2- the payment of any amount of no more than the Executive Board determines or varies from time to time (or its equivalent in another currency) as provided in a separate decision adopted by the Executive Board.

No separation or division of transactions or contracts shall affect the enforcement of the foregoing provisions.

40.2. A person who has joint authority to represent the NCAC in accordance with Article 40.1 shall have the right to give such authority to another person, who must be either a member of the Executive Board or of the staff of the NCAC, for a limited period of time and for a specific purpose, subject to the prior written approval of the Executive Board.

- 40.3. The Executive Board shall be able to nullify any obligation or contract entered into or payment made on behalf of the NCAC in violation of Article 40. Such nullity shall have retroactive effect. Any person who has acted for the NCAC in violation of any of the provisions of this Article 40 shall be liable, jointly and severally, to the NCAC for any and all damages suffered by it as a result thereof.
- 40.4. The Secretary General shall ensure that the relevant provisions of Article 40 shall be published.
- 40.5. For the avoidance of doubt, this Article 40 relates only to the authority to represent and legally bind the NCAC vis-a-vis third parties and does not provide or affect any rules with regard to the decision-making authority within the NCAC.

## CHAPTER 11

# Financial Year, Audit

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### **Article 41. Financial Year, Annual Financial Report, Annual Management Report and Budget**

41.1. The financial year of the NCAC shall start on 1 January and end on 31 December.

41.2. At least 15 (fifteen) calendar days prior to the date of the Annual General Assembly Meeting, the Executive Board shall send the following documents to each member of the NCAC entitled to vote:

- (a) the audited annual financial report (including the balance sheet, statement of income and expenses, fund overview (committed, received, spent, balance), cash flow statement, statement of changes in equity, and fixed assets overview) of the NCAC in respect of the preceding financial year;
- (b) the auditor's report with respect to the annual financial report;
- (c) the annual management report of the Executive Board consisting of a narrative review of developments and events affecting the NCAC during the year past and a preview of the coming year; and
- (d) the annual budget for the NCAC for the then current financial year and the budget for the first quarter of the following financial year.

The annual financial report and the annual management report shall be signed by the Chairman of the Executive Board.

The General Assembly Meeting shall discuss the aforementioned documents and shall approve them following such amendments as may be necessary.

## **Article 42. Audit**

- 42.1. There shall be an annual audit of the NCAC's annual financial report. The General Assembly shall appoint an independent qualified accounting firm to carry out such audit. The appointment shall be for renewable terms of 1 (one) year.
- 42.2. The independent auditor shall present its auditor's report to the General Assembly at the Annual General Assembly Meeting. The Chairman may request the auditor to undertake any other audits or investigations and present such reports to the Executive Board.
- 42.3. All members of the NCAC and of the General Secretariat are obliged to provide information and explanation as may be requested by the auditor.

## CHAPTER 12

# Final Provisions

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### Article 43. Final Provisions

- 43.1. The Internal Rules supplement and form one body with the laws and regulations governing commercial arbitration in Cambodia and shall be read in conjunction with the other laws and regulations governing commercial arbitration in Cambodia.
- 43.2. The Internal Rules are adopted by the General Assembly of the NCAC on 28 March 2021. Any provisions that are contrary to the Internal Rules shall be abrogated.
- 43.3. This Internal Rules shall become effective from 28 March 2021 onwards.

Phnom Penh, 28 March 2021

**National Commercial Arbitration Centre**

**President**



**BUN Youdy**

