



Ministry of Urban Development and Housing

CODE OF CONDUCT FOR CONSTRUCTION INDUSTRY

C I D A

Construction Industry Development Authority

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Ministry of Urban Development and Housing



**Code of Conduct for Construction Industry
in Sri Lanka**



**CONSTRUCTION INDUSTRY
DEVELOPMENT AUTHORITY (CIDA)**

Foreward

The construction Industry is an important sector in Sri Lanka's economy contributing approximately 6% - 9% to the country's Gross Domestic Products (GDP) and providing employment for over 1000,000. A well – developed Construction Industry is one that seeks to promote high standards of conduct among various parties in the industry as an essential for growth, development and sustainability and also to face the present day challenges.

The Construction Industry Development Authority is mandated by the Construction Industry Development Act, No. 33 of 2014 to develop and implement codes of conduct relating to the construction industry. The codes of conduct prepared thus, shall preferably embrace all the stakeholders of the construction industry but not limited to construction professionals/consultants, construction contractors/ subcontractors, clients / employers, projects/ plans/licenses approving authorities, procurement committees & technical evaluation committees, client's /employer's representative, business agents, property developers, financial institutes, tenderers, suppliers, employees, adjudicators and arbitrators. The Code is necessary to guide and regulate the behavior of parties engaged in construction – related procurement and to establish the standards of behavior that participants may expect from each other and against which their behavior can be monitored. The Code shall therefore serve as a guide to the parties in the execution of their obligations.

In drafting this code of conduct, the committee took into consideration the codes of conduct adopted by the different professional bodies in Sri Lanka and also such codes established in several other countries.

Following expert committee contributed in preparing this Code of Conduct and I would like to thank the following committee for their valuable inputs contributed to develop this document this much.

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5. Archt. Dilumini De Mel, Sri Lanka Institute of Architects
6. Mr. N G K Karunawansa , National Construction Association of Sri Lanka
7. Brig.M Wijeyewickrema, Major Construction of Sri Lanka
8. Mr. Roshan Madarasinghe, Major Construction of Sri Lanka
9. Ms Chandi de Alwis, Construction Industry Development Authority
10. Eng. Ishani Kulasekara , Construction Industry Development Authority
11. Archt.Chaya Kulathilaka , Construction Industry Development Authority

I would like to thanks the committee for taking this effect to develop this industry by standardization.

CHAIRMAN -CIDA

Definitions

Qualified persons/consultants/construction professionals

Qualified Persons and Consultants shall be as defined in the Clause 67 of Construction Industry Development Act, No. 33 of 2014.

Construction Professionals shall be identified as the stakeholders engaged in the construction industry contributing expert skills, knowledge and intuition gained and developed through systematic education and training.

Tenders/Project proponents

Tenderers are persons or entities who submit tenders, offers, expressions of interest or proposals to perform a contract in response to an invitation to bid or a request for proposal.

Project Proponent are persons or entities who submit proposals for the execution of a construction development project either consequent to a Request for proposal (RFP) or as an unsolicited proposal.

Construction contractors/subcontractors

Construction Contractors shall have the same meaning as given in the Clause 67 of Construction Industry Development Act, No 33 of 2014.

Subcontractors shall be defined as persons or entities who perform construction works and/or services under the Contractors.

Owners/Clients/Employers

Persons or entities intending to enter or entered into contract with a construction contractor, supplier, agent, consultant and any other party in the construction industry for the construction works or for the provision of supplies, and/or services for construction works.

Owners/clients'/Employers' representative

Persons authorized by the owners / clients or employers to represent them and to act on their behalf on a contract or a project.

Approving authorities of projects/plans/licenses

Persons or entities legally authorized to grant approvals for projects, plans and various licenses required for the execution of construction work.

Technical evaluation committees and procurement committees

Persons appointed to Technical Evaluation Committees or Procurement Committees to coordinate, evaluate and make recommendations for the procurement of goods and services.

Business agents/procuring agents

Persons or entities, who promote business transactions including project procurement, supply of goods & services and payments under a contract to other persons or entities.

Property Developers

Property Developers shall have the clause meaning as given in the clause 67 of Construction Industry Development Act, No. 33 of 2014.

Financial institutes

Banks, Finance Companies and Leasing Companies providing financial services to the construction industry accepted and approved by the Central Bank of Sri Lanka.

Suppliers

Persons or entities that are contracted by either the employer or his agent, or the construction contractor or his agent to provide certain goods and/or services.

Employees

Persons or entities in the employment of an agent, construction contractor, employer, subcontractor or tenderer, and who acts on their behalf. An employee also includes an authorized official in an organization of state.

Adjudicators

A person or persons appointed as per a construction contract for settlement of disputes by adjudication as per the Clause 52 Construction Industry Development Act No 33 of 2014.

Arbitrators

A person or persons appointed for settlement of disputes by arbitration as per the Arbitration Act No 11 of 1995.

Interpretations

In these Regulations unless the context otherwise require the following interpretations shall be applicable,

- (a) Integrity – act with honesty and avoid conduct likely to result, directly or indirectly, in the deception of others.
- (b) Fairness – do not seek to obtain a benefit which arises directly or indirectly from the unfair treatment of other people.
- (c) Fair reward – avoid acts which are likely to result in another party being deprived of a fair reward for their work
- (d) Reliability – maintain up to date skills and provide services only within own area of competence
- (e) Public Interest – have regard for the interests of the public, particularly people who will make use of or benefit from the project in the future
- (f) Dignity - earn respect through the collective and individual conduct
- (g) Due Diligence – deliver the services with due caution and take necessary steps to avoid mistakes and committing tort or offence
- (h) Objectivity - arrive at decisions, judgments and advices based on actual facts but not on the personal preferences or opinions. .
- (i) Accountability – be responsible and accountable for one’s actions.
- (j) Conflict of interest-one’s personal or vested interests that affect the public interest, unbiased duty, decisions, actions or judgments

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01. Code of conduct or construction industry

The regulations, state policy, ethical principles and good governance referred in the code is given below,

1.1 Regulation

Provisions in the Construction Industry Development Act, No. 33 of 2014 and noted following.

- (a) Section 12(g) – Objects of the Authority,
 - i. “to implement the codes of conduct, practices, procedures and processes and documentations relating to construction industry as being formulated by the Authority”
- (b) Section 13(d) – Functions of the Authority,
 - i. “to promote best practices relating to the construction industry;”
- (c) Section 13(h) – Functions of the Authority,
 - i. “to promote the standards of professionalism and employment in the construction industry;”

1.2 State Policy

The state policy referred is mentioned below;

- (a) Protect fundamental rights
- (b) Equality before law
- (c) Promotion of well- being of the people
- (d) Just social, economic and political order to guide all institutions
- (e) Equal opportunities, good governance & accountability
- (f) Further national interest and unity.

1.3 Ethical principals in the code

The ethical principals in the code are given below;

- (a) Integrity – act with honesty and avoid conduct likely to result, directly or indirectly, in the deception of others.
- (b) Fairness – do not seek to obtain a benefit which arises directly or indirectly from the unfair treatment of other people.
- (c) Fair reward – avoid acts which are likely to result in another party being deprived of a fair reward for their work
- (d) Reliability – maintain up to date skills and provide services only within your area of competence
- (e) Public Interest – have regard for the interests of the public, particularly people who will make use of or benefit from the project in the future
- (f) Dignity - earn respect through the collective and individual conduct

- (g) Due Diligence – deliver the services with due caution and take necessary steps to avoid mistakes and committing tort or offence.
- (h) Objective - arrive at decisions, judgments and advices based on actual facts but not on the personal preferences or opinions.
 - (a) Accountable – be responsible and accountable for one’s actions. In particular provide information and warning of matters within your knowledge which are of potential detriment to others who may be adversely affected by them. Warning must be given in sufficient time to allow for the taking of effective action to avoid detriment.
 - (b) Conflict of interest-one’s personal or vested interests that affect the public interest, unbiased duty, decisions, actions or judgments.

1.4 The policy of good governance

The policy of god governance is mentioned below;

- (a) Have clearly stated and enacted corporate values such as efficiency, responsibility, accountability, transparency and integrity;
- (b) Recognize the legitimacy of interest of defined stakeholders and treat them in reputable manner;
- (c) Adopt agreed codes to tackle corruption and persist the enforcement thereof;
- (d) Give due recognition to the respect for human rights;
- (e) Respect the well-being of employees by treating them fairly and with cultural gender sensitivity;
- (f) Practice and encourage greater environmental and social responsibility;
- (g) Avoid the use of harmful products and processes;
- (h) Promote collaborative partnerships with communities;
- (i) Work to build capacity and recognize need for profitability in the private sector to ensure a vibrant and sustainable industry;
- (j) Guard against abuse of power by the stronger party in contractual relationships;
- (k) Recognize the inherently dangerous nature of the industry and give priority to occupational health and the safety of all employees and the public; and
- (l) Engage with Industry Players and share best practices.

02. Application of the code of conduct

The application of the code is given below;

- (a) The achievement of best practices throughout the construction industry is the responsibility of all stakeholders. Therefore, this Code of Conduct shall apply to all stakeholders defined hereunder.
- (b) However if any stakeholder is a member of an association/professional body established under an Act of Parliament relating to construction industry and if such association/professional body has published a Code of Conduct or Code of Ethics, which is applicable to such stakeholder then such Code of Conduct or Code of Ethics shall take precedence. The procedures to be followed on a complaint received against a stakeholder shall be as specified in section 8.
- (c) This Code of Conduct shall apply to such stakeholders only if the Code of Conduct of the relevant association/professional body does not cover any specific provision of this Code of Conduct which has been breached by such stakeholders or in the event of not taking satisfactory action by the relevant association/professional body on a reported breach of this Code of Conduct.
- (d) The Code of Conduct serves to establish the broad framework within which an act or default by the identified stakeholders shall be monitored, judged, and regulated.

03. Acceptable general conduct of all stakeholders

For a healthy industry that delivers value to clients and society, all stakeholders either in public or private construction works procurement or execution process or in the supply of goods or services for such construction works, shall in their dealings with one another act in the best interest of the contract and particularly in compliance with following general conduct irrespective of the fact whether such stakeholder is a member of an association/professional body relating to construction industry or not.

- (a) ensure that the public interest has unequivocal importance in all activities;
- (b) act with honesty, integrity and with due diligence so as to preserve the dignity of their profession and field of operation. The stakeholders shall maintain up to date skills and provide services only within the areas of own competencies in order to maintain the reliability;

- (c) not solicit or accept any gratification as an inducement or a reward which could constitute an offence under the Bribery Act No 11 of 1954 and any amendments thereto;
- (d) ensure compliance with all applicable laws, regulations, rules & guidelines of relevant professional, governing or regulatory bodies.
- (e) be responsible and accountable for their actions;
- (f) be required to focus on activities in an objective and impartial manner;
- (g) act in a manner to avoid conflict of interest. In case where such conflict arises he shall duly disclose such situation to ensure good conduct and fairness;
- (h) avoid acts which are likely to result in another party being deprived of a fair reward for their work and shall only expect fair reward.

04. Enforcement of the code of conduct

- (a) This Code of Conduct encourages self-regulation by all stakeholders of the Construction Industry. Parties are therefore encouraged to be members of a professional body or association.
- (b) In the event of non-compliance to this Code a party may, either by himself or on behalf of another, report the alleged unacceptable conduct to the Construction Industry Development Authority in writing.
- (c) When a complaint is received by the Authority against a party who is a member of a professional body, established by an Act of Parliament and having a code of conduct or ethics published in the Gazette, then such complaint should be referred to the relevant professional body by the Authority to investigate and take appropriate action.
- (d) The relevant professional body, to whom a complaint was referred by the Authority, shall report back to the Authority on action taken within 3 months.
- (e) If no report on action taken is received within 3 months or if the action taken is deemed insufficient by the Authority, then the Authority shall conduct investigations on the complaint and take appropriate action.
- (f) If the complaint received is against a party who is not a member of a professional body, established by an Act of Parliament, then such complaint shall be investigated by the Authority.
- (g) The Authority shall carry out the investigations in a just and fair manner and in conformity to principles of natural justice.

- (h) After an investigation if found in breach of this code of conduct the Authority may take following action as deemed appropriate.
- Issue a formal warning;
 - Issue a fine;
 - Report the matter either to the Sri Lanka Police, or the Commission to Investigate, Allegations of Bribery or Corruption;
 - Suspend registration or deregistration of the Party from the relevant registration;
 - Publish details of the breach and the identity of the party committing the breach, in CIDA Website and in newspapers;
 - Refer the breach to the appropriate industry association for action consistent with the Code of Conduct;
 - Preclude the party from undertaking construction related contracts.
- (i) Any party who is aggrieved by a decision of the Authority on above may appeal to the Appeals Board established under the Construction Industry Development Act, No. 33 of 2014.
- (j) Reporting parties suspected of misconduct under the Code of Conduct of the Construction Industry is encouraged to protect the values and principles as outlined under the Code. If the party reporting wishes not to divulge the identity then the Authority will ensure the secrecy of the name of informant.

05. Acceptable conduct of specific parties

The following shall be the acceptable conduct of the specific parties encountered in the construction works and related activities.

5.1 Qualified persons/consults/construction professionals

The Qualified Persons / Consultants / Construction Professionals shall

- (a) strictly observe the code of conduct or ethics laid down by the body governing their profession or trade if the said body is established under an Act of Parliament;
- (b) act to uphold above mentioned accepted general conduct;
- (c) not solicit or accept any gratification as an inducement or a reward which could constitute an offence under the Bribery Act No 11 of 1954 and any amendments thereto;
- (d) act in a fair and equitable manner towards all other parties in the procurement;
- (e) not give or accept gifts, favours or other considerations of anything more than of token value;

- (f) discourage delays by any of the parties in the procurement value chain, More specifically qualified persons/consultants/construction professionals shall discharge their duties in a timely manner;
- (g) observe due process taking account of the legitimate and reasonable rights of all the parties;
- (h) gain duly only from an authorized party to the procurement value chain;
- (i) disclose any circumstance which may possibly be construed as constituting a conflict of interest while discharging their duty and excuse oneself from deliberation on such matters;
- (j) provide a level playing ground for all parties in the procurement value chain.

5.2 Tenders/project proponents

The tenderers shall:

- (a) act to uphold aforementioned accepted general conduct;
- (b) not solicit or accept any gratification as an inducement or a reward which could constitute an offence under the Bribery Act No 11 of 1954 and any amendments thereto;
- (c) act professionally as per requirements of regulating body;
- (d) not become involved in collusion with other tenderers or potential tenderers except for the purpose of joint venture formation or collective action to deal with unfair conditions or other faults in documentation;
- (e) not exchange information regarding tenders with any other tenderer prior to the closing time for tenders;
- (f) not knowingly price his tender in such a way as to gain an unfair advantage from an obvious error or oversight, in the tender documents;
- (g) not attempt to influence the tender evaluation process;
- (h) not approach any procuring agent, representative or employee directly in connection with a tender;
- (i) be governed by the rules of fair competition by avoiding fraudulent documents, cartels, inside lobbying, complicity and extraction of inside information.

5.3 Construction contractors/ sub-contractors

The Construction Contractors / Sub Contractors shall:

- (a) act to uphold aforementioned acceptable general conduct;
- (b) not solicit or accept any gratification as an inducement or a reward which could constitute an offence under the Bribery Act No 11 of 1954 and any amendments thereto;
- (c) build up a good cooperation, trust, mutual understanding and confidence with the owners, developers and other stakeholders;
- (d) act professionally as per requirements of regulating body;

- (e) not give or provide gifts, favours or other services or considerations, of anything more than of a token value to any other party;
- (f) fully meet or aim to meet all statutory and contractual obligations fully and in time with regard to conditions of employment, occupational health and safety, training, fiscal matters and any other;
- (g) accept the judgment or actions of agents, employees, or representatives without inducements of any sort;
- (h) employ subcontractors only on the basis of fair, unbiased, written subcontracts;
- (i) engage in fair or ethical practices in dealings with subcontractors;
- (j) make genuine claims for additional payments or time extensions to the contract;
- (k) seek clarification on any matter for which such clarification may be sought;
- (l) not seek relief through corrupt means, from his duties of compliance to quality, time and safety requirements entrusted to him by the Contract and applicable laws and regulations;
- (m) avoid disclosing sub-contractor's/supplier's commercially sensitive information and shall avoid bid shopping.

5.4 Owners/Clients/Employers

The Owners / Clients / Employers shall:

- (a) act to uphold aforementioned acceptable general conduct;
- (b) not solicit or accept any gratification as an inducement or a reward which could constitute an offence under the Bribery Act No 11 of 1954 and any amendments thereto;
- (c) not invite tenders without having a firm intention to proceed with the procurement; and with required funds allocated;
- (d) ensure that the basis on which tenders will be evaluated is clearly set out in the tender documents and that tenders are evaluated and awarded accordingly;
- (e) employ construction contractors only on the basis of fair and equitable written contracts;
- (f) not accept gifts, favours or other considerations, of anything more than token value from any other party to the procurement value chain;
- (g) ensure that all documents relevant to any stage of the procurement value chain are clear comprehensive and set out the rights and obligations of all parties;
- (h) not breach the confidentiality of information, particularly intellectual property, provided by tenderers in support of their tender submissions;
- (i) not engage in unfair or unethical practices in dealings with subcontractors including the practice of trading one subcontractor off against another in an attempt to obtain lower prices;

- (j) ensure that all tenderers are fairly treated and that tender offers are evaluated without bias;
- (k) ensure that transparency is maintained in the tendering process in accordance to prevailing procurement laws;
- (l) ensure that his obligations in terms of contracts with construction contractors and agents are scrupulously and timeously met, particularly in regard to making decisions;
- (m) ensure that legal requirements and principles are upheld in relation to safety, health, the environment and sustainable delivery management;
- (n) ensure that payments are made regularly and within the agreed time schedule;
- (o) promote projects, development and construction work if it brings benefit to society and the public and if it is in line with policy guidelines aimed at economic and social development;
- (p) avoid disclosing the Contractor's commercially sensitive information and shall avoid bid shopping;
- (q) disclose all the vital site data, information and/or knowledge about the project to the Designers and Contractors during the design and construction stages.

5.5 Owners/Clients/Employers' representatives

The Owners' / Clients' / Employers Representatives shall:

- (a) act to uphold aforementioned acceptable general conduct;
- (b) not solicit or accept any gratification as an inducement or a reward which could constitute an offence under the Bribery Act No 11 of 1954 and any amendments thereto;
- (c) not accept gifts, favours or other considerations, of anything more than token value from any other party to the procurement value chain;
- (d) ensure that all documents relevant to any stage of the procurement value chain are clear comprehensive and set out the rights and obligations of all parties;
- (e) not breach the confidentiality of information, particularly intellectual property, provided by tenderers in support of their tender submissions;
- (f) not engage in unfair or unethical practices in dealings with subcontractors including the practice of trading one subcontractor off against another in an attempt to obtain lower prices;
- (g) ensure that transparency is maintained in the tendering process in accordance to prevailing procurement laws;

- (h) ensure that their obligations in terms of contracts with construction contractors and agents are scrupulously and timeously met, particularly in regard to making decisions;
- (i) ensure that legal requirements and principles are upheld in relation to safety, health, the environment and sustainable delivery management;
- (j) ensure that payments are made regularly and within the agreed time schedule.

5.6 Approving authorities of projects/plans/ Licenses

The Authorities, their employees or agents who are legally authorized to grant approvals to projects, plans or licenses required for execution of construction work shall:

- (a) act to uphold aforementioned acceptable general conduct;
- (b) not solicit or accept any gratification as an inducement or a reward which could constitute an offence under the Bribery Act No 11 of 1954 and any amendments thereto;
- (c) conduct themselves in a manner befitting the role which they are to perform;
- (d) strictly observe any code of conduct laid down by their respective employers and the provisions of all Legislation and regulations governing procurement;
- (e) perform their duties in an unbiased and conscientious manner, bearing in mind the legitimate interest of all parties to the construction process and where relevant, the public;
- (f) not allow themselves to be influenced in the execution of their duties by any consideration other than the legitimate and reasonable interests of the respective employers, conforming to the applicable laws, regulations and rules;
- (g) not accept any gifts, favours or other considerations, of anything more than token value from any other party to the procurement value chain;
- (h) facilitate economic development by granting the required approvals as expeditiously as possible and under no circumstance exceeding a time limit of 90 days from application;
- (i) ensure that transparency is maintained in the approval process;
- (j) allow speedy approval of all plans and projects that will spur the construction industry aimed at development of the economy thereby preventing owners and developers resorting to unethical lobbying;
- (k) endeavor to minimize all unnecessary and multiplicity of procedures;
- (l) act promptly so that developers shall not resort to unethical practices in order to expedite such clearances;
- (m) neither resort to soliciting any financial inducement nor seek any other benefits in order to grant statutory clearances.

5.7 Technical evaluation committees & Procurement committees

Members of Technical Evaluation Committees or Procurement Committees shall:

- (a) act to uphold aforementioned acceptable general conduct;
- (b) not solicit or accept any gratification as an inducement or a reward which could constitute an offence under the Bribery Act No 11 of 1954 and any amendments thereto;
- (c) conduct themselves in a manner befitting the role which they are to perform in procurement;
- (d) strictly observe any code of conduct laid down by their respective employers and the provisions of all Legislation and regulations governing procurement;
- (e) perform their duties in an unbiased and conscientious manner, bearing in mind the legitimate interest of all parties to the procurement process and where relevant, the public;
- (f) not allow themselves to be influenced in the execution of their duties by any consideration other than the legitimate and reasonable interests of the respective employers, conforming to the applicable laws, regulations and rules;
- (g) not accept any gifts, favours or other considerations, of anything more than token value from any other party to the procurement value chain;
- (h) where they act on behalf of an employer, administer contracts in an even-handed manner;
- (i) disclose any circumstance which may possibly be construed as constituting a conflict of interest and excuse themselves from deliberations in such matters.

5.8 Business agents/procuring agents

The Business Agents / Procuring Agents shall:

- (a) act to uphold aforementioned acceptable general conduct;
- (b) not solicit or accept any gratification as an inducement or a reward which could constitute an offence under the Bribery Act No 11 of 1954 and any amendments thereto;
- (c) act professionally as per requirements of regulating body;
- (d) not give or provide gifts, favours or other services or considerations, of anything more than of a token value to any other party to the procurement value chain;
- (e) engage in fair or ethical practices and not involve in any corrupt practice in dealing with parties instrumental in the procurement process;
- (f) not attempt to influence the tender evaluation process;

- (g) not become involved in collusion with other tenderers or potential tenderers, except for the purpose of joint venture formation or collective action to deal with unfair conditions or other faults in documentation.

5.9 Property developers

The Property Developers, their employees or agents shall:

- (a) act to uphold aforementioned acceptable general conduct;
- (b) not solicit or accept any gratification as an inducement or a reward which could constitute an offence under the Bribery Act No 11 of 1954 and any amendments thereto;
- (c) not invite tenders without having a firm intention to proceed with the procurement; and with required funds allocated;
- (d) ensure that the basis on which tenders will be evaluated is clearly set out in the tender documents and that tenders are evaluated and awarded accordingly;
- (e) employ construction contractors only on the basis of fair and equitable written contracts;
- (f) not accept gifts, favours or other considerations, of anything more than token value from any other party to the procurement value chain;
- (g) ensure that all documents relevant to any stage of the procurement value chain are clear comprehensive and set out the rights and obligations of all parties;
- (h) not breach the confidentiality of information, particularly intellectual property, provided by tenderers in support of their tender submissions;
- (i) not engage in unfair or unethical practices in dealings with subcontractors including the practice of trading off one subcontractor against another in an attempt to obtain lower prices;
- (j) ensure that all tenderers are fairly treated and that tender offers are evaluated without bias;
- (k) ensure that transparency is maintained in the tendering process in accordance to prevailing procurement laws;
- (l) ensure that their obligations in terms of contracts with construction contractors and agents are scrupulously and timeously met, particularly in regard to making decisions;
- (m) ensure that legal requirements and principles are upheld in relation to safety, health, the environment and sustainable delivery management;
- (n) ensure that payments are made regularly and within the agreed time schedule.

5.10 Financial institutes

The Financial Institutes providing banking, financing and leasing services shall:

- (a) act to uphold aforementioned acceptable general conduct;
- (b) not solicit or accept any gratification as an inducement or a reward which could constitute an offence under the Bribery Act No 11 of 1954 and any amendments thereto;
- (c) act professionally as per the requirements of regulating body;
- (d) act in a fair and equitable manner towards all parties;
- (e) not impose unfair conditions in financing, bank facilities and leasing arrangements favouring selected parties;
- (f) adhere to National Procurement Guidelines as far as possible unless international and national accords agreements and conventions stipulate otherwise;
- (g) adhere to National Policy Guidelines and priorities related to economic development goals;
- (h) neither fund nor encourage funding of any unlawful activities;
- (i) not promote unfair trade practices;
- (j) not promote unfair trade practices and lobby against any other funding agency or financial institution in order to gain contracts by stifling competitive bidding.

5.11 Suppliers

The Suppliers shall:

- (a) act to uphold aforementioned acceptable general conduct;
- (b) not solicit or accept any gratification as an inducement or a reward which could constitute an offence under the Bribery Act No 11 of 1954 and any amendments thereto;
- (c) disclose information regarding their business activities, structure, financial situation, and performance in accordance with applicable law and prevailing industry practices;
- (d) ensure their product/services do not adversely affect the health and safety of their clients and general public;
- (e) be informed of all product regulations and abide by them;
- (f) comply with all product bans and mandatory standards;
- (g) market products according to their design and intended use;
- (h) comply with product liability laws and regulations.
- (i) endeavour to deal fairly with the clients and its employees, directors, officers and external advisers. None should take unfair advantage of anyone through manipulation, concealment, abuse of privileged information, misrepresentation of material facts or any other unfair practices;
- (j) uphold fair business standards in advertising, sales and competition;

- (k) understand the key requisites i.e. the approval procedures, comply with the time schedules, expected quality, criteria for selection of material, testing and other requirements;
- (l) disclose the required technical data to the buyers to facilitate their purchase decision;
- (m) avoid disclosing client's commercially sensitive information.

5.12 Employees

The Employees shall:

- (a) act to uphold aforementioned acceptable general conduct;
- (b) not solicit or accept any gratification as an inducement or a reward which could constitute an offence under the Bribery Act No 11 of 1954 and any amendments thereto;
- (c) perform their duties in an unbiased and conscientious manner, bearing in mind the legitimate interest of all parties to the procurement value chain and the public;
- (d) strictly adhere to their Employer's code of conduct or employment contract;
- (e) not allow themselves to be unduly influenced by, or accept any gifts, favours or other considerations from any party which might have an interest in the procurement value chain;
- (f) disclose any circumstance which may possibly be construed as constituting a conflict of interest and excuse oneself from deliberations in such matters.

5.13 Adjudicators & Arbitrators

Adjudicators and Arbitrators shall:

- (a) act to uphold aforementioned acceptable general conduct;
- (b) not solicit or accept any gratification as an inducement or a reward which could constitute an offence under the Bribery Act No 11 of 1954 and any amendments thereto;
- (c) perform their duties in an unbiased and conscientious manner, bearing in mind the legitimate interest of all parties to the procurement value chain and the public;
- (d) strictly conform to applicable laws, regulations and rules;
- (e) disclose any conflict of interest and refrain from deliberating on matters of such nature;
- (f) considering adjudication and arbitration as an alternate dispute resolution process discourage delays by any of the parties and endeavor to conclude the proceedings as expeditiously as possible;
- (g) not accept gifts, favours or other considerations, of anything more than token value from any other party to the procurement value chain;

- (h) ensure that transparency is maintained in the adjudication or arbitration process.

6.0 Unacceptable conduct

Any action, or default, which conflicts with this code, is unacceptable and includes but not limited to the following:

- (a) Failure to secure practicing licenses;
- (b) Failure to adhere to acceptable labour relation practices;
- (c) Failure to comply with the applicable Code;
- (d) Failure to remit taxes, duties, levies and fines;
- (e) Undertaking construction in prohibited areas;
- (f) Failure to comply with the applicable occupational, health and safety legislation and regulations;
- (g) Abuse of power by the stronger party in contractual relationships;
- (h) Falsifying documents and impersonation of officers;
- (i) Use of non-enforceable contracts;
- (j) Fraudulent, deceptive or malicious acts and practices;
- (k) Collusive, biased or unfair acts and practices.



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