

Charter of the Asian Mediation Association 18th April 2008

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PREAMBLE

WE THE MEMBERS of the Asian Mediation Association (“AMA”),

Convinced that regional co-operation among the organisations involved in mediation in Asia is mutually beneficial, desirable, and necessary for promoting and facilitating the use of mediation and other Alternative Dispute Resolution (“ADR”) methods to settle disputes in the region;

Reaffirming the determination to promote such co-operation within the AMA institutional framework;

Committed to supporting the increasing use of mediation and other ADR methods in the fast growing Asian economies through enhanced regional co-operation;

Hereby Decide to establish and spell out, through this Charter, the objectives, principles and institutional arrangements of AMA:

CHAPTER I - OBJECTIVES AND PRINCIPLES

ARTICLE 1 - OBJECTIVES

1. The Objectives of AMA are:
 - a. to create a non-political framework for, and to facilitate, regional co-operation in the provision of conflict management and resolution services for cross-border disputes, particularly in relation to disputes of a commercial nature;
 - b. to provide access to the best regional expertise for conflict management and resolution, particularly in relation to cross-border disputes requiring a cross-cultural approach to their management and resolution;
 - c. to share resources, best practices and local knowledge of different jurisdictions in relation to the management and resolution of disputes;

- d. to establish a system for any AMA Member to refer disputes to other AMA Members in cases where a neutral venue for conflict management and resolution is required;
- e. to set up common platforms for promoting awareness for mediation and other ADR methods, and for increasing the use of contractual clauses for mediation and other ADR methods;
- f. to jointly organise international conferences and training events to advance the field of ADR;
- g. to co-operate in research and development to advance the field of ADR, and to develop a culturally appropriate model of conflict management and resolution for Asia;
- h. to promote close relations amongst mediation centres and mediators in the region;
- i. to promote AMA and its objectives, events and activities, within the AMA Members' respective areas of operations; and
- j. to endeavour to increase the membership of AMA by recommending potential AMA Members.

ARTICLE 2 - PRINCIPLES

1. AMA and all AMA Members, in pursuit of the Objectives stated in Article 1, shall act in accordance with the following Principles:
 - a. All AMA Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with this Charter; and
 - b. All AMA Members shall give AMA assistance in any activity it undertakes in accordance with this Charter.
 - c. AMA shall be a non-political, non-governmental, voluntary and non-profit organisation.

CHAPTER II - MEMBERSHIP

ARTICLE 3 - FOUNDING MEMBERS

1. The formation of AMA was initiated by the Singapore Mediation Centre, which shall be one of the founding members of AMA. The other founding members of AMA are the other organisations which signed the Memorandum Of Understanding (“MOU”) for the formation of the Asian Mediation Association in Singapore on 17th August 2007. They are the Hong Kong Mediation Centre, the Indonesian Mediation Center, the Malaysian Mediation Centre and the Philippine Mediation Center.

ARTICLE 4 - ADMISSION OF NEW MEMBERS

1. Any AMA Member may recommend an organisation for admission as a new AMA Member. The admission of any organisation to membership in AMA will require the approval of three-quarters of all existing AMA Ordinary Members at that point in time.
2. The following shall be the eligibility criteria for ordinary membership in AMA. AMA ordinary membership is open to an organisation:
 - a. whose main office is established in Asia;
 - b. whose core function/business is the provision of mediation/conciliation services (the organisation should be a full fledged mediation centre);
 - c. which has been established for at least 3 years as at the date of application for admission into AMA as a new ordinary member or has more than 1,000 cases referred to mediation annually;
 - d. which agrees to be bound and to abide by this Charter; and
 - e. which is able and willing to carry out the obligations of AMA membership.

Such members shall collectively be referred to as “Ordinary Members”.

3. The following shall be the eligibility criteria for associate membership in the AMA. AMA associate membership is open to an organisation:
 - a. whose business is the provision of alternative dispute resolution services and includes the provision of mediation/conciliation services.
 - b. which has been established for at least 1 year as at the date of application for admission into AMA;
 - c. which agrees to be bound and to abide by this Charter;
 - d. which is able and willing to carry out the obligations of AMA membership.

Such members shall be collectively referred to as “Associate Members”.

[Amended 13 March 2010]

ARTICLE 5 - RIGHTS AND OBLIGATIONS

1. All AMA Members are bound by this Charter.
2. All Ordinary Members of AMA stand on an equal footing. Except as herein provided, all AMA Members shall have equal rights and obligations under this Charter.
3. All AMA Members shall take all necessary measures to effectively implement the provisions of this Charter and to comply with all obligations of membership.

[Amended 13 March 2010]

ARTICLE 6 – WITHDRAWAL AND TERMINATION

1. All AMA Members shall have the right to withdraw from AMA. AMA Members shall notify the AMA Secretariat in writing of such intention three (3) months prior to the withdrawal.
2. An AMA Member’s membership is terminated when the AMA Member:
 - (a) Enters into any composition with creditors, bankruptcy, winding-up or other insolvency proceedings; or

- (b) Breaches a fundamental objective or obligation of AMA membership;

and is deemed terminated when at least three quarters of AMA Ordinary Members then existing agree to the termination at a General Meeting. The decision of the General Meeting shall be final and conclusive.

ARTICLE 7 – ANNUAL FEES

1. All AMA Associate Members shall pay an annual membership fee of USD 1,000 every calendar year. The annual membership fee shall be payable within 14 days of becoming an Associate Member (the first year's membership fee to be pro-rated accordingly) and in respect of each subsequent calendar year shall be payable in advance on or before 1st January of that year.
2. Where an Associate Member's annual membership fee is in arrears for more than 30 days and the Associate Member fails to rectify such fundamental breach within 14 days of written notice being given, associate membership may be terminated in accordance with Article 6(2) above.
3. The AMA General Meeting may, if it thinks fit, waive all or any part of the annual membership fee.

[Amended 13 March 2010]

CHAPTER III - STRUCTURE

ARTICLE 8 - AMA CHAIRMAN

1. The Chairmanship of AMA shall be elected at the AMA General Meeting and the term of office of the AMA Chairman shall be two years beginning the first day of the calendar year following the election. Two years must elapse before a successor is elected to fill that office; this rule may be waived if there is approval from three-quarters of all exiting AMA Ordinary Members at that point in time.
2. All AMA Ordinary Members shall be eligible to nominate a candidate for the Chairmanship of AMA.

3. The AMA Secretariat shall, not less than eight weeks (8) before an AMA General Meeting preceding the end of the term of the incumbent AMA Chairman, call for nominations for the incoming AMA Chairman. AMA Ordinary Members shall submit nominations with the work plans to the AMA Secretariat, not less than four (4) weeks before the AMA General Meeting. The AMA Secretariat shall conduct a vote of AMA Ordinary Members for the selection of AMA Chairman at the AMA General Meeting.
4. All candidates nominated by AMA Ordinary Members shall be required to present a work plan at the AMA General Meeting.
5. The candidate with the most votes shall be the incoming AMA Chairman. In the event of a tie, each shall serve a one (1) year term and the AMA General Meeting shall decide who shall be the incoming AMA Chairman.
6. No person shall hold the office of AMA Chairman for more than two (2) consecutive terms. This rule may be waived if there is approval from three-quarters of all exiting AMA Ordinary Members at that point in time.

ARTICLE 9 - ROLE OF AMA CHAIRMAN

1. The AMA Chairman shall:
 - a. actively promote and enhance the interests and well-being of AMA, including efforts to build AMA through policy initiatives, coordination, consensus and cooperation;
 - b. ensure an effective and timely response to urgent issues affecting AMA, including providing its good offices and such other arrangements to immediately address these concerns;
 - c. represent AMA in strengthening and promoting closer relations with external partners; and
 - d. carry out such other tasks and functions as may be mandated.

ARTICLE 10 - AMA SECRETARIAT

1. The Singapore Mediation Centre has established and managed the AMA Secretariat in support of AMA and its objectives, and has and will assign its

resources to that effect in a manner that the Singapore Mediation Centre deems fit until the AMA Secretariat is rotated to another Ordinary Member of the AMA, whereupon the incoming Ordinary Member and any Ordinary Member who takes over therefrom will manage the AMA Secretariat in support of the AMA and its objectives, and assign its resources to that effect.

2. All AMA Ordinary Members shall be eligible to serve as the AMA Secretariat. The AMA Ordinary Member that nominated the incumbent AMA Chairman shall serve as the AMA Secretariat, unless a majority of AMA Ordinary Members decide otherwise. The term of office for the Secretariat shall follow that of the said incumbent AMA Chairman. The AMA Secretariat shall fund itself.
3. The AMA Secretariat shall:
 - a. carry out the duties and responsibilities in accordance with the provisions of this Charter and relevant instruments, protocols and established practices;
 - b. co-ordinate the efforts of all AMA Members to actively promote and enhance the interests and well-being of AMA, including efforts to build AMA through policy initiatives, co-ordination, consensus and co-operation;
 - c. facilitate and monitor progress in the implementation of AMA agreements and decisions;
 - d. represent AMA in strengthening and promoting closer relations with external partners;
 - e. present the views of AMA and participate in meetings with external parties in accordance with approved policy guidelines and mandate;
 - f. prepare for AMA General Meetings;
 - g. undertake other tasks provided for in this Charter or such other functions as may be assigned by AMA General Meetings; and
 - h. host and maintain the AMA website.

CHAPTER IV - DECISION MAKING

ARTICLE 11 - AMA GENERAL MEETING

1. The AMA General Meeting shall:
 - (a) be the supreme policy-making body of AMA; and
 - (b) deliberate, provide policy guidance and take decisions on key issues pertaining to the realisation of the objectives of AMA and other important matters of interest to AMA Members.
2. AMA shall hold an AMA General Meeting annually (“AMA Annual General Meeting”), to be hosted by one of the AMA Ordinary Members.
3. Apart from the AMA Annual General Meeting, an AMA Extraordinary General Meeting shall be convened, whenever necessary, as a special or ad hoc meeting to be organised at a venue to be agreed upon by AMA Ordinary Members.
4. Decisions at AMA General Meetings shall only be valid if:
 - (a) there is a quorum of two-thirds of then existing AMA Ordinary Members present and the decision is reached by a simple majority of AMA Ordinary Members present; or
 - (b) if such quorum is not present, the decision is subsequently endorsed by a majority of then existing AMA Ordinary Members.
5. Where a decision at an AMA General Meeting is required, but an AMA General Meeting cannot be convened, decisions by postal or electronic correspondence will be deemed valid if there is approval from a simple majority of then existing AMA Ordinary Members.
6. The AMA Chairman, if any, shall preside as chairman at every general meeting. If he is not able to be present, the AMA Chairman may nominate a representative of one of the Ordinary Members to chair the meeting on his behalf. Where there is no chairman or he is not present within 30 minutes of the meeting scheduled to be held, the Ordinary Members present shall elect one of their representatives present to be chairman of the meeting.
7. Notice of at least 21 days’ shall be given to all AMA Ordinary Members before the AMA Annual General Meeting or an Extraordinary General Meeting is convened. Such notice shall specify the place, the day and the hour of meeting. A meeting may be called by notice shorter than is herein required if it is agreed by

- a simple majority of the AMA Ordinary Members existing at the time, for such a meeting to be convened.
8. The agenda for General Meetings shall be circulated to AMA Ordinary Members at least 7 days before the date of the meeting.
 9. Each AMA Ordinary Member shall have one vote at a General Meeting.
 10. Any AMA Ordinary Member may appoint in writing another AMA Ordinary Member as a proxy to represent the same, whether with specific instructions or authorising the said proxy to vote as he may deem appropriate. Provided that:
 - (a) Any AMA Ordinary Member present for the General Meeting may not hold more than one proxy; and
 - (b) The instrument creating the proxy shall be delivered to the AMA Secretariat at least 1 day prior to the General Meeting.
 11. Associate Members may attend the General Meetings as observers and shall not have any voting rights. For the avoidance of doubt, notice requirements set out in this Article are not applicable to Associate Members.

[Amended 13 March 2010]

ARTICLE 12 - CONSULTATION AND CONSENSUS

1. As a basic principle, decision-making in AMA shall be based on consultation and consensus.
2. Where consensus cannot be achieved, an AMA General Meeting may decide how a specific decision can be made.

CHAPTER V - SETTLEMENT OF DISPUTES

ARTICLE 13 - GENERAL PRINCIPLES

1. AMA Members shall have the determination and good faith to prevent disputes from arising. In case disputes on matters directly affecting them should arise, they shall at all times settle such disputes among themselves through friendly dialogue, consultation, negotiation and mediation.

ARTICLE 14 - UNRESOLVED DISPUTES

1. In the event no solution is reached after the application of the preceding provision of this Chapter, this dispute shall be referred to an AMA General Meeting for its decision. Appropriate means of settlement, shall be recommended to the parties in dispute, such as good offices, inquiry or mediation/conciliation.

CHAPTER VI - EXTERNAL RELATIONS

ARTICLE 15 - CONDUCT OF EXTERNAL RELATIONS

1. AMA shall develop friendly relations and mutually beneficial dialogue, co-operation and partnerships with other institutions involved in ADR.
2. The external relations of AMA shall adhere to the objectives and principles set forth in this Charter.
3. In the conduct of external relations of AMA, AMA Members shall, on the basis of unity and solidarity, co-ordinate and endeavour to develop common positions and pursue joint actions.

CHAPTER VII - GENERAL AND FINAL PROVISIONS

ARTICLE 16 - AMENDMENTS

1. Any AMA Ordinary Member may propose amendments to this Charter.
2. An amendment to this Charter shall only be valid if there is approval from three-quarters of all existing AMA Ordinary Members at that point in time.

ARTICLE 17 - REVIEW

1. This Charter may be reviewed five years after its entry into force or as otherwise determined by an AMA General Meeting.

ARTICLE 18 - INTERPRETATION OF THE CHARTER

1. Upon the request of any AMA Member, the interpretation of this Charter shall be undertaken by the AMA Secretariat in accordance with the rules of procedure determined by an AMA General Meeting.
2. Any dispute arising from the interpretation of this Charter shall be settled in accordance with the relevant provisions in Chapter V.
3. Headings and titles used throughout this Charter shall only be for the purpose of reference.

ARTICLE 19 - ORIGINAL TEXT

1. A copy of this Charter in English certified by the AMA Secretariat shall be provided to each AMA Ordinary Member. Associate Members may request for a copy of the Charter in English subject to payment of reasonable charges to the AMA Secretariat.

ARTICLE 20 - LEGAL EFFECT AND EFFECTIVE DATE

1. This Charter is not established as a formal or legal agreement, but this Charter is only a definite expression and record of the objectives and intentions of the AMA Members.
2. This Charter shall enter into force on the 18th day of April 2008.

Approved the Eighteenth Day of April in the Year Two Thousand and Eight.
1st Amendment on [13th day of March 2010]