

ARBITRATOR STATEMENT

(Under the Decision No. 103/QĐ-VIAC dated 01 June 2022 by the President of Vietnam International Arbitration Centre)

Case No.: /

Full name:

Please check “√” in all relevant boxes

After studying:

- The Case files;
- VIAC’s Rules of Arbitration (“**VIAC’s Rules**”);
- Code of Ethics for an Arbitrator of VIAC;
- Guidelines on arbitral proceedings for arbitrators (“**Guidelines**”);
- VIAC’s Regulations on remuneration of Arbitrators;
- VIAC’s Regulation on the payment of expenses for travelling and accommodation of arbitrators,

I state that:

1. ACCEPTANCE or NON-ACCEPTANCE

ACCEPTANCE

I agree to serve as an Arbitrator in the case No. /..... and confirm the followings:

(If you tick here, please continue to read and complete the remaining sections of this Statement)

I agree to conduct arbitral proceedings in accordance with the VIAC’s Rules, arbitration laws of the seat of arbitration, Guidelines, Code of Ethics for Arbitrator; accept to refer to VIAC’s practices as well recommendations from VIAC’s Secretariat; accept that my remuneration and expenses will be fixed by VIAC in accordance the VIAC’s Regulations on remuneration of Arbitrators and VIAC’s Regulations on the payment of expenses for travelling and accommodation of arbitrators.

I confirm that I fully meet the criteria and conditions as prescribed in relevant laws and rules of arbitration, by agreement of disputing parties (if any), and other requirements regarding expertise, experience, language, etc. to resolve the dispute. I also confirm

NON-ACCEPTANCE

I decline to serve as an arbitrator in the case No. /.....

(If you tick here, please date and sign the form without completing any other sections)

particularly that I meet the conditions on the language of arbitration and shall conduct the arbitral proceedings by the language of arbitration.

I confirm, upon acceptance to serve as Arbitrator, under the VIAC's Rules, that I shall not act as lawyer or representative of any of the parties, shall not privately or directly meet or communicate with any of the parties to discuss issues related to the dispute.

In case I have or receive any communications with or from parties or representative of any of the parties, whether direct or indirect in any way, I shall immediately make disclosure to the Arbitral Tribunal and VIAC Secretariat.

I confirm that all communications between myself or the Arbitral Tribunal and the parties in relation to the dispute including opinions, request, instructions, decisions, orders, arbitral award etc. shall be conducted via the Secretariat of VIAC in the format issued by VIAC.

i am willing to co-operate with VIAC to resolve arising issues (if any) relating to the dispute, even when the arbitral proceedings have been completed.

2. DILIGENCE

- I confirm** that I will devote myself to conduct this arbitration diligently, promptly, efficiently and in accordance with the time limits in the VIAC's Rules, agreement between the parties, the Guidelines and law applicable to arbitration proceedings.

3. INDEPENDENCE AND IMPARTIALITY

- 3.1. Arbitrator shall be independent, impartial, objective and shall remain so during the course of the arbitration. Therefore, if you have any doubt as to your independence, impartiality, and objectivity, for any reasons, whether falling under the circumstances prescribed in this Statement or not, please refuse to act in this arbitration and notify VIAC accordingly. In this case, you will tick the "non-acceptance" section above without completing other sections of this Arbitrator Statement. In case you accept to act as an arbitrator in the case, please conduct the next steps as instructed below.
- 3.2. Before accepting to act as an arbitrator in the arbitration and throughout the arbitral proceeding, you shall make reasonable efforts within your capacity to investigate and identify potential conflict of interest as well as facts and circumstances that may give rise to doubts as to your independence, impartiality, and objectivity under the eyes of the parties. In particular, please check whether there exists any past or present relationship, whether direct or indirect, between you and any of the parties, their related entities, affiliates or their lawyers or other representatives, whether of financial, professional or of any other kind. In case of falling under any circumstances of potential conflict or facts and circumstances that may give

rise to your independence, impartiality, or objectivity, you shall immediately make disclosure to VIAC’s Secretariat and the Arbitral Tribunal.

- 3.3. Any doubts shall be resolved in favour of disclosure. Any disclosure should be complete and detailed, listing relevant dates (both starting and ending dates), related arrangements, details of individuals and organisations, and all other relevant information.
- 3.4. Below is a list of circumstances whereby conflict of interest *may* exist and/or which *may* cast doubts on your independence, impartiality, and objectivity under the eyes of the parties. The below list is non-exhaustive and provides for examples of the most common circumstances only. You are encouraged to investigate with reasonable effort to disclose facts and/or circumstances even not falling under the below list, such as circumstances similar to the listed ones but falling outside the prescribed time-limit or other relationships of similar nature.

I. Where the Arbitrator shall automatically not act as Arbitrator in the arbitration

Note: *These are circumstances considered as conflict of interest necessarily exists which gives rise to justifiable doubts as to the arbitrator’s independence, impartiality, and objectivity. Therefore, if you tick any “YES” box in this section, please tick “NON-ACCEPTANCE” box (page 1). If you tick all “NO” boxes, please continue to review Section II and III.*

Please tick “√” in “Yes” or “No” of **all boxes** below:

Yes	No	Content
		1.1. You are a relative of a party or is a legal representative, employee or otherwise representative of an entity that is a party in the arbitration.
		1.2. You are a manager, director or member of the supervisory board, or has similar controlling influence in one of the parties or an entity that has a direct economic interest in the award to be rendered in the arbitration.
		1.3. You have a significant financial interest in one of the parties or the outcome of the case.
		1.4. You or your firm regularly advises one party or an affiliate of one party, and you or your firm derives a significant financial income therefrom.

II. Where the Arbitrator shall not act as Arbitrator in the arbitration unless the parties expressly agree

Note: *These are circumstances that may give rise to doubts as to the arbitrator’s independence, impartiality, and objectivity. Therefore, if you tick any “YES” box in this section, please tick item B and provide detailed information related to the ticked circumstance(s) (if any) and continue to review Section III. In case the supplemental detailed information is lengthy, you may provide it in form of a Disclosure Letter attached to this Statement.*

If you tick all “NO” boxes, please continue to review Section III.

Please tick “√” in “Yes” or “No” of **all boxes** below:

Yes	No	Content
		2.1. You have given legal advice or provided an expert opinion on the dispute to a party or an affiliate of one of the parties.
		2.2. You were a mediator, a representative, a counsel of any of the parties in the dispute currently being brought to VIAC or had prior involvement of any other kind in the dispute.
		2.3. You hold shares, either directly or indirectly, in one of the parties or an affiliate of one of the parties that is privately held.
		2.4. A close family member of yours (including spouse, sibling, child, parent or life partner) has a significant financial interest in the outcome of the dispute.
		2.5. You or a close family member of yours has a close relationship with a third party who may be liable to recourse on the part of the unsuccessful party in the dispute.
		2.6. You currently represent or advise one of the parties or an affiliate of one of the parties.
		2.7. You currently represent or advise the lawyer or law firm acting as counsel for one of the parties.
		2.8. You are a lawyer in the same law firm or a colleague in the same organisation as the counsel or representative of one of the parties.
		2.9. You are a manager, director or member of the supervisory board, or has a similar controlling influence, in an affiliate of one of the parties if the affiliate is directly involved in the matters in dispute in the arbitration.
		2.10. Your law firm had a previous but terminated involvement in the case without the Arbitrator being involved yourself.
		2.11. Your firm currently has a significant commercial relationship with one of the parties or an affiliate of one of the parties.
		2.12. You regularly advise one of the parties or an affiliate of one of the parties, but neither you nor your firm derives a significant financial income therefrom.
		2.13. You have a close family relationship with one of the parties or with a manager, director or member of supervisory board or any person having a similar controlling influence in one of the parties or

Yes	No	Content
		an affiliate of one of the parties or with a counsel representing a party.
		2.14. A close family member of yours has a significant financial interest in one of the parties or an affiliate of one of the parties.
		2.15. You do not meet specific requirements agreed by the parties.

III. Where the Arbitrator shall make disclosure and may not act as Arbitrator if a party objects and a decision on replacement of arbitrator follows

Note: These are circumstances that may give rise to doubts as to the arbitrator's independence, impartiality, and objectivity. Therefore, if you tick any "YES" box in this section, please tick item B and provide detailed information related to the ticked circumstance(s) (if any), and date, sign at the end of this Statement. In case the supplemental detailed information is lengthy, you may provide it in form of a Disclosure Letter attached to this Statement.

If you check all "NO" boxes in this section, Section I, Section II above, please check item A and date, sign at the end of this Statement.

1. Previous services for one of the parties or other involvement in the dispute

Please tick "✓" in "Yes" or "No" of **all boxes** below:

Yes	No	Content
		3.1.1. Within the past 3 years, you have served as counsel for one of the parties or an affiliate of one of the parties or has previously advised or been consulted by the party or an affiliate of the party making appointment in an unrelated matter, but you and the party or the affiliate of the party have no ongoing relationship.
		3.1.2. Within the past 3 years, you have served as counsel against one of the parties or an affiliate of one of the parties in an unrelated matter.
		3.1.3. Within the past 3 years, you have been appointed as arbitrator on 3 or more occasions (including this Case) by one of the parties or an affiliate of one of the parties.
		3.1.4. Within the past 3 years, your firm has acted for or against one of the parties or an affiliate of one of the parties in an unrelated matter without the involvement of the Arbitrator.
		3.1.5. You currently serve, or have served, within the past 3 years, as arbitrator in another arbitration on a related issue involving one of the parties or an affiliate of one of the parties.

2. Current services for one of the parties

Please tick “√” in “Yes” or “No” of **all boxes** below:

Yes	No	Content
		3.2.1. Your firm is currently rendering services to one of the parties or to an affiliate of one of the parties without creating a significant commercial relationship for the firm and without your involvement.
		3.2.2. A law firm or other individual/organisation that shares revenues or fees with your firm renders services to one of the parties or an affiliate of one of the parties before the arbitral tribunal.
		3.2.3. You or your firm represents a party or an affiliate of a party to the Arbitration on a regular basis, but such representation does not concern the current dispute.

3. Relationship between an arbitrator and another arbitrator or counsel

Please tick “√” in “Yes” or “No” of **all boxes** below:

Yes	No	Content
		3.3.1. You and another arbitrator in the same Arbitral Tribunal or you and counsel of one of the parties are lawyers in the same law firm, barristers in the same chamber or colleagues in the same organisation.
		3.3.2. Within the past 3 years, you were a partner of, or otherwise affiliated with, another arbitrator or any of the counsels in the same arbitration.
		3.3.3. A lawyer or colleague in your firm is an arbitrator, counsel or representative in another dispute involving the same party or parties or an affiliate of one of the parties.
		3.3.4. A close family member of yours is a partner or employee of the law firm representing one of the parties but is not assisting with the dispute.
		3.3.5. A close personal friendship exists between you and a counsel or a representative of one party.
		3.3.6. Within the past 3 years, you have received more than 3 appointments (including this case) by the same counsel and/or the same firm representing a party.
		3.3.7. You and another arbitrator, or counsel for one of the parties in the arbitration, currently act or have acted together within the past three years as member of an arbitral tribunal or co-counsel.

4. Relationship between Arbitrator and party and others involved in the arbitration

Please tick “√” in “Yes” or “No” of **all boxes** below:

Yes	No	Content
		3.4.1. Your firm is currently acting adverse to one of the parties or an affiliate of one of the parties.
		3.4.2. You had been associated within the past 3 years with a party of an affiliate of one of the parties in a professional capacity, such as former employee or partner.
		3.4.3. A close personal friendship exists between you and a manager or director or a member of the supervisory board or any person having a similar controlling influence in one of the parties or an affiliate of one of the parties or a witness or expert.
		3.4.4. Enmity exists between you and a manager or director or a member of the supervisory board of a party; an entity that has a direct economic interest in the award; or any person having a controlling influence in one of the parties or an affiliate of one of the parties or a witness or expert.
		3.4.5. If you are a former Judge, you have, within the past 3 years, heard another case involving one of the parties or an affiliate of one of the parties.

5. Other circumstances

Please tick “√” in “Yes” or “No” of **all boxes** below:

Yes	No	Content
		3.5.1. You hold shares, either directly or indirectly, which by reason of number of denominations constitute a material holding in one of the parties or an affiliate of one of the parties that is publicly listed.
		3.5.2. You have publicly advocated a specific position regarding the case that is being arbitrated, whether in a published paper or speech or otherwise.
		3.5.3. You hold one position with the appointing authority over the dispute.
		3.5.4. You are a manager, director or member of the supervisory board, or has a similar controlling influence, in an affiliate of one of the parties, where the affiliate is not directly involved in the matters in dispute in the arbitration.

Upon review and examination of the above list following the VIAC’s instruction, I confirm that:

- A.** I am completely independent, impartial, objective, and shall remain so. There is no information to be disclosed by myself.
- B.** I am completely independent, impartial, objective, and shall remain so. However, I would like to make known to the parties the following information (which does not affect my independence, impartiality, and objectivity):

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Note:

- This Arbitrator Statement and the enclosed Letter of disclosure (if any) shall be sent to the parties in this arbitration if the arbitrator disclose facts or circumstances which may cast doubts as to his/her independence, impartiality, objectivity, or if there is a challenge to arbitrator’s independence, impartiality, objectivity, or a request for replacement of arbitrator from a party or parties.
- The information contained in this Arbitrator Statement and the enclosed Letter of disclosure (if any) shall be strictly confidential and used for the sole purpose of this arbitration. Arbitrators and relevant parties shall not use or distribute this information to any third party without prior consent from VIAC.
- The interpretation of this Arbitrator Statement, including application by analogy, shall be finally decided by VIAC on the basis of VIAC’s practice and in consideration of the relevant facts in each particular case as well as the parties’ opinion and the arbitrators’ opinions (if any).
- This Arbitrator Statement is binding on the arbitrator signing below.

Date: _____

Signature: _____

Fullname: _____

NOTES TO PARTIES UPON RECEIPT OF THIS ARBITRATOR STATEMENT

1. If there is information disclosed under Section I, the arbitrator shall not act as an arbitrator in the arbitration.
2. If there is information disclosed under Section II, upon VIAC's request, parties shall submit to VIAC their opinion on whether they agree or disagree with the arbitrator acting in the arbitration within 7 days from the receipt of the Arbitrator Statement or within any other time-limit determined by VIAC. Only when all parties agree in writing, the arbitrator can act in the arbitration.
3. If there is information disclosed under Section III or falling outside the list of circumstances prescribed in the Arbitrator Statement, any party having doubt as to the arbitrator's independence, impartiality, objectivity based on such disclosure shall submit a challenge and request for replacement of arbitrator to VIAC within 15 days from the receipt of the Arbitrator Statement or within any other time-limit determined by VIAC, enclosing with detailed submission and evidence to prove that there exists justifiable doubts as to the arbitrator's independence, impartiality, objectivity. If no challenge and request for replacement of arbitrator is received within the aforementioned time-limit, parties are deemed to accept the arbitrator. If the challenge and request for replacement of arbitrator based on the arbitrator's disclosure is filed outside the aforementioned time-limit, the challenging party may bear the burden of cost allocation respectively and/or shall be deemed to waive its right to challenge the arbitrator pursuant to the applicable law.
4. If there is no disclosure made by the arbitrator, any party having doubt as to the arbitrator's independence, impartiality, objectivity based on the information *not* disclosed by such arbitrator, whether falling under the list of circumstances prescribed in the Arbitrator Statement or otherwise, shall submit a challenge and request for replacement of arbitrator to VIAC within 15 days from the date such information comes to the challenging party's attention, enclosing with detailed submission and evidence to prove that there exists justifiable doubts as to the arbitrator's independence, impartiality, objectivity. If the challenge and request for replacement of arbitrator is filed outside the aforementioned time-limit, the challenging party may bear the burden of cost allocation and/or shall be deemed to waive its right to challenge the arbitrator pursuant to the applicable law.
5. The arbitrator's disclosure is by no means construed as being not independent, impartial, or non-objective. Further, the arbitrator's failure to disclose or incomplete disclosure does not automatically lead to the conclusion on his/her lack of independence, impartiality, objectivity or to the disqualification of such arbitrator. Challenge and request for replacement of arbitrator shall be considered and decided pursuant to Article 17 of the VIAC's Rules of Arbitration, in which, doubts are considered justifiable if a reasonable third person having knowledge of the facts and circumstances would come to the conclusion that the arbitrator is not independent, impartial, or non-objective.