



**ANTI – BRIBERY AND
ANTI – CORRUPTION
POLICY**

JUNE 2020

1.0 Introduction

This Corporate Liability Policy (“CLP”) is issued pursuant to sub-section (5) of section 17A of the Malaysian Anti-Corruption Commission Act 2009 (Act 694) (“MACC Act 2009”), as stated in the Malaysian Anti-Corruption Commission (Amendment) Act 2018 (“Amendment Act 2018”).

The provision of section 17A under MACC Act 2009 (Amendment Act 2018) established the principle of an organisation’s criminal liability (corporate liability) for the corrupt practices of its associated persons (i.e. the director, partner or an employee of the organisation or the person who performs services for or on behalf of the organisation) where such corrupt practices are carried out for the organisation’s benefit or advantage.

This CLP is not intended to provide definitive answers to all questions regarding bribery and corruption. Rather, it is intended to provide all ARB Berhad personnel with basic guidelines on how ARB Berhad combats bribery and corruption in furtherance to the Company’s commitment to lawful and ethical behaviour at all times. If you have any doubt about the scope of applicable laws or the application of the group’s policies concerning the fight against bribery and corruption, you should contact your immediate supervisor/HOD who shall refer the matter to the Director.

1.1 Objective

The objectives of this CLP are listed as below: -

- a. To foster the growth of a business environment that is free from corruption.
- b. To ensure all personnel of ARB Berhad take reasonable measures to ensure their daily activities do not involve corrupt activities.
- c. To provide guidance on how to recognise and deal with bribery and corruption issues.
- d. To avoid penalty from the relevant authorities due to non-compliance on any acts related to integrity and anti-corruption.

1.2 Application

- a. This CLP shall apply to all personnel of ARB Berhad (i.e. employees) and all subsidiaries of ARB Berhad. In the case of Directors/Board Members, they shall be governed by the “No-Gift Policy” as designated by MOF/Government.
- b. Contractors, sub-contractors, consultants, agents, representatives and others performing work or services for or on behalf of ARB Berhad group companies is expected to comply with the relevant parts of the CLP when performing such work or services.
- c. Joint-venture companies in which ARB Berhad is a non-controlling co-venture and associated companies are encouraged to adopt these or similar principles and standards.

1.3 Compliance with Malaysian (or Local) Laws and Regulations

- a. This CLP shall at all times comply with and be subject to the Malaysian laws and regulations (or Local laws and regulations, depending on the country of operation).
- b. In the unlikely event of any conflict or inconsistency between the provisions of this CLP and the Malaysian (or Local) laws and regulations, the latter shall prevail.

1.4 Non-compliance to the CLP

- a. Any non-compliance to this CLP shall constitute a serious offence warranting disciplinary action or possible lawsuit and dismissal of the offender subject to management discretion.

1.5 Reporting Structure

- a. In the event any personnel suspects any act/ conduct of another personnel is in breach of the policies laid out in this CLP, he/ she may report the matter to their immediate supervisor/ HOD.
- b. If the Supervisor/ HOD is unable to resolve the issue, or is the subject matter of the report, the personnel shall escalate the report directly to the Director/ CEO.
- c. If the Director/ CEO is the subject matter of the report, the personnel may report the matter to the Audit Committee, who will decide on the next course of action.
- d. Please refer to company website or Whistle Blowing Policy for the available contact and reporting channel.

2.0 Definition of Integrity and Corruption

2.1 Integrity

- a. Integrity is the practice of being honest and showing a consistent and uncompromising adherence to strong moral and ethical principles and values.

2.2 Corruption

- a. Corruption is defined as the abuse of office or position for personal gain or the misuse of position to help others in improperly enriching themselves or obtaining power or influence.
- b. Corruption can be any form of abuse of entrusted power for private gain and may include but not limited to bribery.
- c. Bribery is commonly described as intentional inducement or reward offered, promised or provided in order to gain any commercial, contractual regulatory or personal advantage.
- d. Both bribery and corruption are punishable offences under the MACC Act 2009 (Amendment Act 2018).
- e. There are four (4) main offences prescribed by MACC Act 2009 (Amendment Act 2018):
 - i. Soliciting/ Receiving Gratification (Bribe) as per section 16 & 17(a);
 - ii. Offering/ Giving Gratification (Bribe) as per section 17(b);
 - iii. Intending to Deceive (False Claim) as per section 18; and
 - iv. Using Office or Position for Gratification (Bribe) as per section 23.
- f. Failure to report on the above could lead to regulatory reprimand and fine as prescribed under MACC Act 2009 (Amendment Act 2018).

2.3 Forms of Corruption

- a. **Kickbacks** - These are bribes fulfilled after a company has awarded a contract to a customer. They take place in purchasing, contracting, or other departments responsible for decisions to award

contracts. The supplier provides the bribe by kicking part of the contract fee back to the buyer, either directly or through an intermediary.

- b. **Facilitation payments** - These are typically small payments made to secure or expedite the performance of a routine or necessary action to which the payer is entitled, legally or otherwise.
- c. **Charitable and political donations, sponsorship, travel, and promotional expenses** - These are legitimate activities for entities but can be abused by being used as a subterfuge for bribery.
- d. **Conflict of interest** - A conflict of interest occurs where a person or entity with a duty to the organisation has a conflicting interest, duty, or commitment. Having a conflict of interest is not in itself corrupt, but corruption can arise where a director, employee, or contracted third party breaches the duty due to the organisation by acting in regard to another interest.
- e. **Bid rigging** - The way that conspiring competitors effectively raise prices in situations where purchasers acquire goods or services by soliciting competing bids.
- f. **Cartels** - A secret agreement or collusion between organisation to commit illicit actions or fraud.
- g. **Price fixing** - An agreement among competitors to raise, fix, or otherwise maintain the price at which their goods or services are sold. Price fixing can take many forms, and any agreement that restricts price competition may violate applicable competition laws.
- h. **Revolving door** - This is corruption linked to the movement of high-level personnel from public sector jobs to private sector jobs and vice versa. The main concerns relate to how the practice by an organisation can compromise the impartiality and integrity of public office. For organisations, there may be risks in discussing or promising future employment to public officials or using former public officials as board members, employees, or consultants.
- i. **Patronage** - Favouritism in which a person is selected, regardless of qualifications, merit, or entitlement, for a job or benefit because of affiliations or connections.
- j. **Illegal information brokering** - The brokering of corporate confidential information obtained by illegal methods.
- k. **Insider trading** - Any securities transaction made when the person behind the trade is aware of non-public material information and is hence violating his or her duty to maintain confidentiality of such knowledge.
- l. **Tax evasion** - The illegal non-payment of tax to the government of a jurisdiction to which it is owed by a person, enterprise, or trust who should be a taxpayer in that place.

3.0 Gifts, Entertainment, and Corporate Hospitality

3.1 Receiving Gifts

- a. The company does not prohibit personnel from receiving gifts, as in certain situations these acts are a central part of business etiquette. However, the following restrictions still apply to comply with the MACC Act 2009 (Amendment Act 2018).
- b. All personnel are allowed to accept gifts, provided they are **NOT**: -
 - i. Gifts of cash/ cash equivalent (i.e. cash vouchers, coupons, shares, commissions, etc.). The exception to the above is for material gifts such as fruits, flowers, and token gifts (i.e. diaries, pens, umbrellas, shirts, etc.)
 - ii. Gifts with actual value of RM500 and above (*Note: It is the onus of the personnel to determine the actual value of the gift*).
 - iii. Gifts of hampers with total value of RM500 and above.

In the event the gift violates any of the above restrictions, the gift must be declined and returned with a note from the personnel thanking the sender and politely explaining the reason of returning the gift.

- c. In the event that the sender insists on providing the gift to the intended personnel despite acknowledging the company's policy for not allowing to accept such gifts, or if it is not feasible to return the gift (i.e. extra delivery cost incurred), then the personnel must declare and surrender the gift to the Human Resource Department ("HR"). The HR will then seek collective senior management / CEO/Board of Director's decision on the treatment of the gift. The collective senior management/ CEO/Board of Director may decide on any of the following treatment: -
- i. Donate the gift to charity;
 - ii. Surrender to SRC for club activities;
 - iii. Register as company property to be used publicly by all personnel;
 - iv. Designate as display item;
 - v. Distribute to all company personnel equally or through lucky draw;
 - vi. Permit the personnel to retain the gift; or
 - vii. Any other action based on management's discretion.

3.2 Receiving Entertainment and Corporate Hospitality

- a. The company recognises that the occasional acceptance of an appropriate level of hospitality and entertainment given in the normal course of business is usually a legitimate contribution to building good business relationships. However, it is important for company personnel to exercise proper care and judgement before accepting the entertainment and hospitality.
- b. The company strictly prohibits all personnel from soliciting corporate hospitality and entertainment nor are they allowed to accept hospitality and entertainment that is excessive, inappropriate, illegal or given in response to, in anticipation of, or to influence a favourable business decision, particularly from parties engaged in a tender or competitive bidding exercise.
- c. Examples of entertainments could include golf, movies, karaoke, spa, orchestra, theatre, concerts etc. Examples of corporate hospitalities could include dining, conference, training, open-house, event tickets or invitation for events, additional discounts given on items bought from customer's companies etc.
- d. In the event the personnel find that the corporate hospitality is beneficial to foster healthy business relationship, the personnel is allowed to accept but it has to be declared to HR.
- e. For the purpose of this CLP, travelling is defined as corporate hospitality which typically involves travelling cost within the country or overseas paid by the third party.
- f. If any personnel have any doubts on the appropriateness of a corporate hospitality and entertainment offered by an external party, they should either decline the offer or first consult with HR (subsequently to seek CEO's approval at the advice of HR, if deemed necessary).

3.3 Providing Gifts

- a. All personnel are prohibited from providing gifts with value more than RM500 to third parties with the exception of value more than stipulated amount must get approval from the Director/CEO whereby the gift-giving are ARB Berhad's corporate gift mainly as a business courtesy or the gifts are distributed during a corporate event (bearing ARB Berhad's name or logo).

- b. All expenses incurred to provide the corporate gifts must be properly kept, documented and recorded by the respective division/ department for audit purposes.

3.4 Providing Entertainment

- a. All personnel are prohibited from providing entertainment to third parties with the exception to the Director/CEO and any other officers (authorised by the Director/CEO) whereby the provision of entertainment is mainly as a measure of goodwill to the recipient.

4.0 Corporate Social Responsibility (“CSR”), Donations and Sponsorships

4.1. CSR, Donations and Sponsorships

- a. Any CSR, donations and sponsorship activities conducted must not be used as a conduit to circumvent, avoid, or evade the laws or regulatory requirements. More importantly, it shall not be used to facilitate corruption, illegal and money laundering activities.
- b. All CSR, donations and sponsorship requests must be carefully examined for legitimacy and not be made to improperly influence a business outcome.
- c. The proposed recipient must be a legitimate organisation and appropriate due diligence must be conducted in particular to ascertain that the benefits reach their intended recipients whilst the programmes meet the intended objectives.
- d. Any red flags must be resolved before committing any funds to the programme. No CSR, donation and sponsorship shall be made to any beneficiary who is controlled or influenced by any political officials.
- e. Examples of red flags to look out for are as follows:
 - The proposed recipient /organisation has affiliations with a Public Official, or their relatives are involved;
 - The contribution is made on behalf of a Public Official;
 - There is a risk of a perceived improper advantage for the company.
- f. All CSR, donations and sponsorship shall be approved by the CEO/ Board of Directors and made in accordance with the approval limits/ budget.
- g. All personnel to assess the requests based on good judgment and common sense. When in doubt, the personnel should seek further advice from the CEO or Director.

4.2. Political Contributions

- a. As a matter of general policy, the company does not make or offer monetary or in-kind political contributions to political parties, political party officials or candidates for political office.
- b. ARB Berhad encourages all personnel to participate in the political election process by voting. All personnel may choose to make personal political contributions as appropriate within the limits established by the law.
- c. ARB Berhad has the right to engage and communicate its views and position on issues of public interest that have an important impact on the Company.

5.0. Facilitation Payment

5.1. Making Facilitation Payment

- a. Facilitation payment is defined as payments made to secure or expedite the performance by a person performing a routine or administrative duty or function.
- b. Offering, promising or requesting facilitation payments is just as prohibited as actually paying or receiving facilitation payments. Facilitation payments need not involve cash or other financial asset, it can be any sort of advantage with the intention to influence them in their duties.
- c. The company prohibits accepting or obtaining, either directly or indirectly, facilitation payments from any person for the benefit of the personnel himself/ herself or for any other person. The reason underlying this prohibition is that facilitation payment is seen as a form of bribery and corruption.
- d. All persons must not offer, promise, give, request, accept or receive anything which might reasonably be regarded as a facilitation payment. If the personnel receive a request or offered facilitation payments, he/she must immediately report to the relevant authority as stated in **Section 1.5: Reporting Structure** (or as provided under the company's Whistle Blowing Policy).

6.0. Due Diligence on Third Parties

6.1. Dealing with Third Parties

- a. Dealings with third parties, which include customers, contractors, vendors, suppliers, solicitors, agents, consultants, joint venture partners, introducers/ government intermediaries etc., must be carried out in compliance with all relevant laws and consistent with the values and principles of the Code of Conduct and Ethics. As part of this commitment, all forms of bribery and corruption are unacceptable and will not be tolerated.
- b. For the purpose of this CLP, the third parties shall include all legitimate business entities ranging from public limited companies and private limited companies to partnerships and sole proprietorships.
- c. ARB Berhad expects that all third parties acting for or on its behalf to share the Company's values and ethical standards as their actions can implicate the Company legally and tarnish the Company's reputation. Therefore, where we engage with or lend-out to third parties, we are obligated to conduct appropriate counterparty due diligence to understand the business and background of the prospective business counterparties before entering into any arrangements with them. This is to safeguard that the Company deals with counterparties that subscribe to acceptable standard of integrity in the conduct of their business.
- d. To help ensure that the company only do business with third parties that share the same standards of integrity, the personnel must exercise the following:
 - i. Conduct due diligence to assess the integrity of prospective business counterparties. Do not enter into any business dealings with any third party reasonably suspected of engaging in bribery and improper business practices unless those suspicions are investigated and resolved.
 - ii. All third parties are made aware of the principle innards of the Company's Code of Conduct and Ethics, and Whistle Blowing policies and SOPs.

- iii. Continue to be aware of and to periodically monitor third party's performance and business practices to ensure ongoing compliance.
- e. If at any point during the due diligence exercise or in the dealings with a third party, there are conflicts of interest or "red flags" being raised, these warrant further investigation and must be sufficiently addressed before the engagement of the third party can progress. Examples of common "red flags" involving third parties include:
 - The transaction involves a country known for a high incidence of corrupt payments.
 - Family, business or other "special" ties with government or public officials.
 - A reference check reveals a flawed background or reputation of the third parties.
 - Objection to anti-bribery representations and warranties in commercial agreements or negative response when told of such requirements.
 - Convoluted payment arrangements such as payment in cash, payment to a third party or requests for upfront payment for expenses or other fees.
 - The third party requires that his/ her identity not to be disclosed as part of the business transaction.
 - Inadequate credentials for the nature of the engagement or lack of an office or an established place of business.
- f. All personnel to assess the integrity and ethical business practices of third parties based on good judgment and common sense at all times.
- g. All personnel should seek advice from their respective HODs/ Directors/ CEO whenever particular questions arise relating to third parties that the Company is considering appointing or financing.
- h. For a detailed due diligence checklist on the third party, please refer to Appendix A. The personnel is to note that the due diligence checklist is non-exhaustive and is strongly encouraged to add own measures into the checklist for a meaningful and thorough assessment on the third party.

6.2 High Risk Third Parties

- a. Third parties that present the biggest risk of corruption or perception of corruption are those that are public officials, connected to public officials or third parties that are likely to interact with public officials in the course of the performance of the contract.
- b. This is because a public official is in a position of influence and could use this influence in relation to the contract or the contract could affect decision making in their official role.
- c. The public official and third party could be working in concert, with corrupt payments being made to the public official. Even if there is no evidence of corrupt activity, the mere association of a public official could create the perception of a corrupt relationship.
- d. Accordingly, contracts with third parties who are public officials, connected to or likely to interact with public officials are high risk. Therefore, the due diligence conducted by the respective division/ department in lieu of the public officials shall always be more extensive than the dealing with non-public officials.

6.3. Due Diligence Process

- a. The purpose of due diligence is to serve as a guide to all personnel in making a decision whether to continue the relationship with the third party. Any unsatisfactory answer to the non-exhaustive due diligence checklist shall be treated as red flags by the personnel.
- b. If all identified red flags are sufficiently mitigated, then the personnel could proceed with the relationship. Similarly, if no red flags have been identified, then the personnel can proceed with the engagement (to satisfy that reasonable steps had been taken to address the corruption risk of the third party).
- c. If red flags have been identified but not sufficiently mitigated, then it is critical that further work is undertaken prior to entering into any contract or relationship. All red flags will need to be resolved or mitigated.
- d. The most common/ direct way of resolving a red flag will be to contact the third party directly. In particular, the third party should be asked what measures they have taken to resolve the corruption issue which had taken place in their company.
- e. The Company does not in any way limit the methods or mechanisms used by the personnel to conduct the third party's due diligence so long as the same is permitted by the law.
- f. Nevertheless, the personnel must ensure that they have maximised the due diligence facilities provided by the Company such as subscribing to the KYC features provided by RAMCI (which include AML/CFT) on top of existing litigation records and seeking BTA to conduct screening on the third party.
- g. If the red flags relate to a historic investigation in corrupt activity where no convictions happened, then the red flag can be considered mitigated (though it is prudent to seek further information or background of the circumstances).
- h. The division/ department may also consider imposing conditions to reduce any perceived risk such as training for the third party's personnel or imposing anti-corruption policies on the third party. This could be reinforced via contractual provisions.
- i. In some circumstances, the red flags are unsubstantiated rumours which have not been formally investigated by the authorities or law enforcement agencies or proven in a court, tribunal or equivalent. Under this scenario, the division/ department may proceed with the contract. Nevertheless, it is advisable that the division/ department to continuously monitor the situation and immediately highlight to the Management if any adverse findings noticed.
- j. Where the division/ department finds that the red flags still could not be mitigated or resolved despite all of the non-exhaustive measures, the division/ department shall not proceed with the relationship with the third parties.
- k. For any third party with positive public official trace, and the division/ department has decided to commence the relationship whereby the interests are also not prohibited by the Company's Code of Conduct and Ethics, the disclosure in the financing requisition etc. is a mandatory.

7.0. Financial & Non-financial Controls

7.1 Separation of Duties and Approving Powers

- a. The Company adopts a clear separation of duties for all jobs functions either it is financially or non-financially related.
- b. For jobs related to non-financial activities, there must be at least two-layers of checking i.e. maker and checker. Nonetheless, in most circumstances, the non-financial jobs functions will have three layers of checking.
- c. For jobs related to financial activities, the Company had since adopted four-layers of checking which shall comprise of the maker, checker and approver/ internal audit verification.
- d. Further, for financial activities (such as disbursement and payment activities), the Company strictly adopts multiple signatories to further mitigate any corruption risk.

8.0. Recruitment

8.1 Corruption & Bribery Screening

- a. The recruitment of personnel should be based on approved selection criteria to ensure that only the most qualified and suitable individuals are employed. This is crucial to ensure that no element of corruption is involved in the hiring of personnel.
- b. In line with this, proper background checks should be conducted in order to ensure that the potential personnel have not been convicted in any bribery or corruption cases. More detailed background checks should be taken when hiring personnel that would be responsible in management positions, as they would be tasked with decision-making obligations.
- c. HR may conduct assessment to all new recruits and personnel to ascertain the level of integrity of all personnel as well as the new hires.

Appendix A – Due Diligence Checklist on Third Parties

No	Due Diligence Checklist	Yes	No
Relationship with the Third Party			
1	There has been difficulty in obtaining the required information from the third party		
2	There are concerns or evidence of corruption (convictions) in respect of the third party		
3	There are allegations of corruption activity against the third party or any of its personnel		
4	The third party does not have its own anti-corruption/ code of conduct/ anti-fraud/ compliance programme		
5	The third party does not have its own due diligence procedure in place for the sourcing of customers and procurement of vendors, subcontractors etc.		
6	The value of the contract secured by the third party is unreasonable		
7	There is evidence of adverse news related to the third party		
8	The third party does not have the necessary skills and experience to provide the services for which they will be contracted		
9	The third party is not charging a fair market price for their services (<i>a company paying bribes may often charge more for its services in order to create a slush fund to pay bribes</i>)		
10	The third party is being associated with disreputable suppliers/ subcontractors etc.		
11	The third party is not readily and efficiently able to deal with the due diligence requirements of larger companies		
12	The third party ever requested urgent payments or unusually high commissions		
Third Party as a Public Official			
13	The third party is a public official		
14	The owners, directors, shareholders, officers or any employees of the third party being current or former public officials		
Third Party's Dealing with Public Official			
15	The third party is recommended by a public official		
16	The third party will be interacting/ has any affiliations with public officials in order to perform the contract		
17	The owners, directors, shareholders, officers or any employees of the third party have personal, familial or any associations with public officials		
18	The third party has connections with public officials or government agencies		
19	The third party's personnel (including immediate family members of the personnel) have connections with public officials		