



# THE NDB OPERA CODE OF CONDUCT

## PREAMBLE

NEREIDES DE BOURBON GROUP, together with NEREIDES CLUB – INTERNATIONAL CULTURAL DIPLOMACY CORPORATION and a coalition of stakeholders committed to ethical recruitment, is developing a certification system known as NDB OPERA Standard. Once implemented, NDB OPERA will enable businesses to better identify recruitment intermediaries who share their commitment to fair recruitment and labour practices. It will also provide support to government, private sector and civil society to promote coherent international ethical recruitment practices. NDB OPERA will be developed and piloted in several phases, ultimately leading to its independence as a self-governing entity.

Labour mobility is an increasingly important element of the global economy and an enabler of development. Safe and fair migration and the protection of migrant workers' rights is a concern for businesses, as well as for governments of countries of origin, transit and destination. Serious abuses, including forced labour, debt bondage and trafficking for forced labour, often arise as a consequence of the unfair and unethical recruitment of migrant workers.

Complementing government efforts to regulate recruitment activities, private sector actors have worked to address unethical recruitment through industry-led codes of conduct and other self-regulatory initiatives requiring ethical recruitment practices within supply chains. Despite the efforts of recruitment industry leaders to champion the importance of ethical recruitment, these practitioners face an uneven playing field against unscrupulous and sometimes criminal intermediaries.

Responding to the need to mobilize labour migration stakeholders to address this problem, NEREIDES DE BOURBON GROUP and NEREIDES CLUB – INTERNATIONAL CULTURAL DIPLOMACY launched NDB OPERA Capacity Building Program to promote safe and ethical international labour recruitment and increase the transparency of the recruitment industry. The NDB OPERA Capacity Building Program is a forum for employers, recruitment intermediaries, governments, civil society organizations and other organizations with the goal of developing practical, operational tools, such as the NDB OPERA Standard.

## Purpose

The goal of the NDB OPERA Standard is to bring transformative change to part of the recruitment industry pertaining to cross-border recruitment, where the business model is largely based on excessive fee-charging and exploitation of migrant workers. It will do so through the creation of a level playing field that promotes good practice and encourages a labour market free from exploitation and labour abuses.

## Concept

The NDB OPERA certification process is anchored by a Code of Conduct and Operational Protocol. The Code of Conduct establishes benchmarks for fair and ethical labour recruitment, while the Operational Protocol provides certifiable performance indicators for recruitment intermediaries.

The NDB OPERA Code of Conduct and Operational Protocol are firmly rooted in internationally recognised human rights standards and relevant UN conventions, including:

- the ten UN core international human rights instruments;
- the ILO Fundamental Conventions (as stated in the 1998 ILO Declaration on Fundamental Principles and Rights at Work), specifically the 2014 Protocol to the Forced Labour Convention;

## NDB OPERA



and

- all other relevant ILO standards, in particular the ILO Private Employment Agencies Convention (No.181) and accompanying Recommendation (No.188) and the ILO's Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy.

NDB OPERA is built upon the UN "Protect, Respect, Remedy" Framework for Business and Human Rights and the Guiding Principles for Business and Human Rights, as well as other initiatives such as the Institute for Human Rights and Business' (IHRB) Dhaka Principles for Migration with Dignity and the International Confederation of Private Employment Agencies' (Ciett) code of conduct.

The NDB OPERA is being closely coordinated with NEREIDES CLUB – INTERNATIONAL CULTURAL DIPLOMACY CORPORATION's Ethical Recruitment Initiative.

### **Scope**

The NDB OPERA Code of Conduct sets the foundation for a certification process for recruitment-related activities of recruitment intermediaries involved in the selection and placement of migrant workers. Where relevant, the NDB OPERA Code of Conduct distinguishes between issues related to the direct recruitment of migrant workers and those regarding the supply of migrant agency workers. The Code of Conduct further delineates between the obligations of recruitment intermediaries within their own recruitment activities and their requirements to take appropriate measures to mitigate the risk of employment-related abuses. The appropriate measures will be defined in the Operational Protocol.

## **DEFINITIONS**

### **NDB OPERA Ambassadors**

- Any agent or agency that performs recruitment-related activities, including recruitment agents, employment agencies and sub-agents, and that is certified based on the NDB OPERA Code of Conduct and Operational Protocol (NDB OPERA Standard).
- Recruitment Agent/Agency: Any natural or legal person who provides services for matching offers of and applications for employment without the agent or agency becoming a party to the employment relationship that may arise therefrom.
- Employment Agent/Agency: Any natural or legal person who provides services consisting of hiring or engaging migrant workers to make them available to a third party (see "user enterprise" below) that assigns tasks and supervises the execution of these tasks.

### **Employers/User Enterprises**

- Employer: Private or public employer who contracts with a Recruitment Agent/Agency to recruit Direct Employees.
- User Enterprise: A business enterprise that contracts the services of an employment agency, which in turn provides the services of an agency worker. The user enterprise usually supervises the work and it is normally performed on its premises; however, the user enterprise is not party to the employer- employee contract or responsible for payment of wages directly to the worker.

### **Workers**

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- **Direct Employee:** An individual selected and/or appointed by a recruitment agent but hired by an employer.
- **Agency Worker:** An individual placed with a user enterprise that assigns his/her tasks and supervises the execution of these tasks, but who is employed by an employment agency.
- **Migrant Worker:** Any direct employee or agency worker who is to be engaged, is engaged or has been engaged in a remunerated activity in a state of which he/she is not a national. For the purpose of this Code of Conduct, the term “worker” also includes jobseekers.

#### **NDB OPERA Angels**

- Any public or private agency or company that performs worker’s services-related activities, including but not limited to housing services, banking services, medical services, insurance services, transports services, training services, legal services, financial services, social services, and that is certified based on the NDB OPERA Code of Conduct and Operational Protocol (NDB OPERA Standard).



## **PRINCIPLES**

### **Principle 1: Respect for Ethical and Professional Conduct**

- NDB OPERA members and stakeholders must meet their responsibility to respect human rights in the context of their recruitment activities, by having in place policies and processes, including due diligence, to ensure that their recruitment activities are conducted in a manner that treats migrant workers with dignity and respect, free from harassment, or any form of coercion or inhumane treatment.

### **Principle 2: Respect for Laws, and Fundamental Principles and Rights at Work**

- Consistent with fundamental principles and rights at work and the UN Guiding Principles on Business and Human Rights, NDB OPERA members and stakeholders must comply with all applicable legislation, regulations, multilateral and bilateral agreements on labour migration, and policies related to the recruitment, selection, transportation and placement into employment of migrant workers in the jurisdictions of origin, transit and destination countries, including those pertaining to the immigration or emigration of migrant workers.
- Where doubts exist about the conformity of national regulation with internationally recognised human rights and labour standards, NDB OPERA members and stakeholders should seek to apply the latter.

### **Principle 3: Prohibition of Forced Labour and Human Trafficking**

- NDB OPERA members and stakeholders must not use, recruit or deploy forced labour or persons subjected to human trafficking
- NDB OPERA members and stakeholders should take appropriate measures to prevent the use of such labour in connection with their activities.

### **Principle 4: Prohibition of Child Labour**

- NDB OPERA members and stakeholders must not use or supply child labour.
- NDB OPERA members and stakeholders should take appropriate measures to prevent the use of such labour in connection with their activities.

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#### **Principle 5: Prohibition of Recruitment Fees to Jobseekers**

- NDB OPERA members and stakeholders must not charge directly or indirectly, in whole or in part, any fees or costs to migrant workers, for the services related to recruitment for temporary or permanent job placement.
- NDB OPERA members and stakeholders should take appropriate measure to ensure that any recruitment fees paid by an employer or user enterprise in connection with their services are not recouped directly or indirectly, in whole or in part, from workers.

#### **Principle 6: Respect for Freedom of Movement**

- NDB OPERA members and stakeholders must not require migrant workers to provide a monetary deposit or other collateral as a condition of employment, and must not withhold, destroy or confiscate identity documents, wages, or other personal belongings, and otherwise limit the freedom of movement.
- NDB OPERA members and stakeholders must take appropriate measures to ensure that upon deployment migrant workers are not subject to the above mentioned practices and enjoy freedom of movement.

#### **Principle 7: Respect for the Right of Freedom of Association and Collective Bargaining**

- NDB OPERA members and stakeholders must not in any way deny the right of freedom of association.
- NDB OPERA members and stakeholders must take appropriate measures to ensure that migrant workers are not deployed to workplaces where they are denied worker representation, and the right to freedom of association and to bargain collectively.
- In accordance with national law and practice, NDB OPERA members and stakeholders must not make workers available to an employer or user enterprise to replace workers who are legally on strike.

#### **Principle 8: Respect for Decent Work and Accommodations**

- NDB OPERA members and stakeholders must take appropriate measures to ensure that migrant workers enjoy safe and decent work.
- When accommodations are provided by NDB OPERA members and stakeholders, they must ensure that they are safe, clean and hygienic.
- When accommodations are provided by the employer or user enterprise, NDB OPERA members and stakeholders should take appropriate measures to ensure that they are safe, clean and hygienic.
- When accommodation are provided by NDB OPERA stakeholders, NDB OPERA members should take appropriate measures to ensure that they are safe, clean and hygienic.

#### **Principle 9: Respect for Transparency of Terms and Conditions of Employment**

- NDB OPERA members and stakeholders must ensure that, prior to deployment, migrant workers are provided with written contracts in a language each worker understands, detailing the terms and conditions of employment including but not limited to the nature of the work to be undertaken, rates of pay and pay arrangements, working hours, vacation and other leave, and all other lawful deductions from pay and benefits of employment in accordance with national law.
- NDB OPERA members and stakeholders must ensure that the worker's assent is obtained without coercion.
- NDB OPERA members and stakeholders should take appropriate measures to ensure the contract is not substituted for one of less favourable conditions upon deployment.

#### **Principle 10: Respect for Equal Treatment and Non-Discrimination**

- NDB OPERA members and stakeholders must treat migrant workers without discrimination on the basis of race, colour, sex, religion, political opinion, national extraction, social origin, sexual orientation, age, disability, or any other form of unlawful and unethical discrimination covered by national law and practice.
- NDB OPERA members and stakeholders must take appropriate measures to ensure that upon deployment migrant workers are not subject to discrimination that would constitute a violation of their human and labour rights.



### **Principle 11: Respect for Confidentiality and Data Protection**

- NDB OPERA members and stakeholders must not record, in files or registers, personal data which are not required for judging the aptitude of migrant workers for jobs for which they are being or could be considered, or required to facilitate their deployment.
- NDB OPERA members and stakeholders must ensure that all personal data that they collect, receive, use, transfer or store shall be treated as strictly confidential and shall not be communicated to any third party without the prior written approval of the worker.

### **Principle 12: Respect for Access to Remedy**

- NDB OPERA members and stakeholders must ensure that migrant workers effective access to remedy, as provided by law, and to effective operational-level grievance mechanisms in relation to their recruitment activities without fear of recrimination, reprisal, or dismissal.
- NDB OPERA members and stakeholders should take appropriate measures to ensure that upon deployment migrant workers equally have effective access to remedy, as provided by law, and to effective operational-level grievance mechanisms, without fear of recrimination, reprisal, or dismissal.

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**NDB OPERA Code of Conduct  
Blockchain Certification:**

