



**THE MALAYSIAN INSTITUTE OF ARBITRATORS**  
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Minutes of the 25<sup>th</sup> Annual General Meeting (AGM) for the Council Year 2017/2018 of The Malaysian Institute of Arbitrators (Institut Penimbangtara Malaysia) held on Wednesday, 14 June 2017 at 6.52 pm at Hearing Room 1 (Ground Floor), KLRC Bangunan Sulaiman, Jalan Sultan Hishamuddin, 50000 Kuala Lumpur.

**Present:**

1.	Mr Kevin Prakash	President (Chairperson of Meeting)
2.	Mr Sudharsanan Thillainathan	Deputy President
3.	Ms Hor Shirley	Vice President
4.	Ms Victoria Loi Tien Fen	Hon Secretary
5.	Mr Wong Wee Hong	Hon. Treasurer
6.	Mr Lam Ko Luen	Imm. Past President
7.	Ms Karen Ng Gek Suan	Council Member
8.	Ms Sharon Chong Tze Ying	Council Member
9.	Mr Gregory Vinesh Das	Council Member
10.	Ms Dawn Wong Keng Jade	Council Member
11.	Mr Verghese Aaron Mathews	Council Member
12.	Mr Isacc Sunder Rajan	
13.	Mr Ho June Khai	
14.	Ir Khoo Choong Keow	
15.	Mr Lim Fan Chong	
16.	Mr Ooi Huey Miin	
17.	Mr Paul Lim Theng Chai	
18.	Ms Wan Syariah Razman	
19.	Mr Gan Hock Leong	

**In Attendance**

1.	Raja Junaidah Raja Aris	Secretariat
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## **1.0 OPENING ADDRESS AND PRESIDENT'S MESSAGE**

- 1.1 The President, Mr Kevin Prakash wished all members a good evening and thanked the members for attending the Annual General Meeting (AGM). The President called the 25<sup>th</sup> AGM to order at 6.52 pm.
- 1.2 The President presented his speech and highlighted some of the main events that have taken place this term as follows.
- 1.3 The Institute had its yearly joint collaboration with Brickfields Asia College ("BAC") for the Diploma in International Arbitration ("DIA") for both terms in 2016 and 2017.
  - 1.3.1 There were 20 students in the June 2016 intake and 15 of them sat for the examination. There were 2 students who sat for the examination as re-sitters. Out of the 17 students who sat for the examination, 15 of them passed the examination and successfully obtained their DIA. The overall passing rate for that intake was 88%.
  - 1.3.2 As for the March 2017 intake, there were 22 students, of which 21 students sat for the examination in April 2017. The DIA Committee is in the midst of marking the examination scripts.
  - 1.3.3 The President thanked the DIA Committee and all lecturers, especially Ms Hor Shirley, who chaired the DIA Committee and for a great job of handling the entire DIA programme.
- 1.4 In early March 2017, the Editorial Committee produced the first newsletter issue of 2017, featuring four articles contributed by lawyers from Messrs Shook Lin & Bok, Messrs CK Oon & Co, Messrs Mohanadass Partnership, and Messrs Skrine respectively. The Editorial Committee was led by Ms Dawn Wong Keng Jade. The President congratulated Ms Wong and team for a job well done. The next newsletter issue is due later this year.
- 1.5 The President informed that the Institute's Facebook page has been actively updated with all the events held for the year and also with case studies. The President welcomed any ideas and contributions for the Facebook page.
- 1.6 The Institute had its Membership Upgrade Course on 25 and 26 February 2017. The Institute has had a steady stream of members attending the course. The course was conducted by a group of experienced practitioners from the arbitral community from various disciplines. A total of 9 participants attended the Course, all of whom passed the assessment and qualified for their well-deserved upgrade from Associate to Member. Mr Verghese Aaron Mathews spearheaded the organisation of the Membership Upgrade Course.
- 1.7 The Institute, together with Pertubuhan Akitek Malaysia (PAM), Royal Institution of Surveyors, Malaysia (RISM) and The Institution of Engineers, Malaysia (IEM) (DRP Subcommittee), organised the annual Joint Course on Alternative Dispute Resolution for Practitioners on 27 and 28 March 2017. This is the 3<sup>rd</sup> instalment of the Course. Ir.

Khoo Choong Keow and Dr. Ooi Teik Aun were instrumental in putting the course together. The Course featured sessions on arbitration, adjudication and a discussion on common issues in construction contract management and on avoidance of disputes arising therefrom. The Institute took up the session on “Arbitration” and delivered lectures on “Introduction to Arbitration. Why Arbitrate?”, “The Hearing Process Procedure and Practice. Managing the Expert Witness” and “Enforcing the Arbitral Award”. Speaking for the Institute were the Vice President, Ms Hor Shirley and Council Member, Ms Karen Ng Gek Suan. The Course was attended by 26 participants.

- 1.8 The Institute also held evening talks. On 23 February 2017, Mr Iain Cameron Potter delivered a talk on *“Keeping Financial Experts Objective in Arbitral Proceedings”*. On 19 April 2017, Mr Ben Olbourne spoke on *“Multi-Tiered Dispute Resolution Clauses”*. The President thanked Mr. Potter and Mr. Olbourne for taking the time off their busy schedules to contribute to the Institute and to its members. The President also thanked Council Member, Ms Choo Choy Lan for organising these evening talks.
- 1.9 On 18 May 2017, the Institute hosted its 4<sup>th</sup> Annual Law Review and Conference. This was a half-day event, which featured leading practitioners who led in-depth discussions on recent cases in arbitration and adjudication in 2016. The Institute’s President, Mr. Kevin Prakash gave the opening remarks. Yang Amat Berbahagia Tun Arifin bin Zakaria, Former Chief Justice of Malaysia delivered the keynote address. There were 3 distinct sessions for this review which included 2 sessions of discussions on the goings-on and recent Court decisions relating to arbitration and adjudication respectively. The discussion on arbitration was led by the Institute’s Deputy President, Mr Sudharsanan Thillainathan and Dato’ Mohd Arief Emran bin Arifin. The discussion on adjudication was led by Mr Sanjay Mohanasundaram and Mr Raymond Mah. In the final session, the Director of the Kuala Lumpur Regional Centre For Arbitration (“KLRCA”), Datuk Professor Sundra Rajoo spoke on the *‘Development in Arbitration Law and Practice in Malaysia. Current and Future Initiatives by the Kuala Lumpur Regional Centre for Arbitration’*. The Institute’s Deputy President, Mr Sudharsanan Thillainathan delivered the closing address. This was followed by a cocktail reception at the Pavilion of KLRCA, Bangunan Sulaiman. The President thanked all who had helped out in organising the conference, in particular the Deputy President, Mr Sudharsanan Thillainathan.
- 1.10 The Institute in collaboration with CIDB Malaysia and KLRCA organised a one-day conference on *‘Avoiding and Resolving Construction Disputes’* on 23 May 2017. This was the first time whereby the Institute had collaborated with both CIDB Malaysia and KLRCA in organizing an event.
  - 1.10.1 The conference started off with welcome addresses by Datuk Professor Sundra Rajoo (Director of KLRCA), Encik Megat Kamil Azmi Megat Rus Kamarani (Senior General Manager of the Operational Sector, CIDB Malaysia) and the Institute’s President, Mr Kevin Prakash respectively.
  - 1.10.2 The Judge of the Kuala Lumpur Construction High Court, the Honourable Justice Dato’ Lee Swee Seng delivered a keynote address titled *“Disposal of Cases in Kuala Lumpur Construction Court with particular reference to Adjudication and Arbitration.”* Justice Lee spoke on several cases concerning the Construction

Industry Payment and Adjudication Act 2012 and arbitration heard by the Kuala Lumpur Construction High Court, with statistics of the same.

- 1.10.3 This was followed by 4 sessions. The first/introductory session was a talk on '*Common Claims and Disputes in the Construction Industry*' by Ir Harbans Singh K.S. The second session, a discussion on '*Resolving Construction Disputes through CIPAA adjudication*' was led by Encik Muhammad Faisal Moideen, Ir Oon Chee Kheng, the Institute's Deputy President, Mr Sudharsanan Thillainathan, and was moderated by the Institute's Honorary Secretary, Ms Victoria Loi Tien Fen. The third session, a discussion on '*Resolution of Construction Disputes through Arbitration: Where Does Arbitration Stand Now?*' was led by Dato' Nitin Nadkarni, Mr Rajendra Navaratnam and the Institute's President, Mr Kevin Prakash, and was moderated by the Institute's Vice President, Ms Hor Shirley. The final session was on "*Avoidance of Disputes through Front-end Modern Legal Drafting*" which consisted of 2 talks. The first talk on "*Key Considerations When Negotiating Construction Contracts*" was delivered by Mr Lam Wai Loon. The second talk on "*Drafting in Modern Plain Legal Language*" was delivered by Sr Dr Noushad Ali Naseem Ameer Ali.
- 1.10.4 The President thanked Council Member, Ms Karen Ng Gek Suan and her team for the marvellous job in handling the event.
- 1.11 The Institute, in collaboration with the Kuala Lumpur Bar, organised a seminar on '*An Introduction to Arbitration*' on 26 May 2017. This seminar was divided into 3 sessions - "*Introduction to Arbitration*", "*Arbitration Hearing Process and Procedure*", and "*Arbitral Awards- Enforcement and Challenge*", presented by the Institute's President, Mr. Kevin Prakash, Honorary Secretary, Ms. Victoria Loi Tien Fen and Council Member, Ms. Karen Ng Gek Suan. The seminar was well received with 62 attendees. The President mentioned that the time allocated to deliver all 3 sessions in the span of half a day was not enough and the seminar may be conducted as a 1-day programme in future. The President thanked Council Member, Ms. Sharon Chong Tze Ying for putting this seminar together for reaching out to the State Bars.
- 1.12 The Institute has seen an increase in the number of members. The membership stands at 608 strong and the Institute looks forward to an increase during the coming year.
- 1.13 The President noted that none of this would have been possible without the tireless effort and dedication of each council member and in particular, Ms Victoria Loi Tien Fen, Mr Wong Wee Hong and our Administrative Executive, Raja Junaidah Raja Aris who held it all together. The President mentioned that he is privileged to work with this A-Team.
- 1.14 The President also thanked each and every member of the Institute as it is the members that make the Institute. On behalf of all the members of the Council, the President said that Council is privileged to have the mandate to serve all members.
- 1.15 The President also recorded his appreciation and gratitude to the Kuala Lumpur Regional Centre for Arbitration for the outstanding support since the Institute's move to Bangunan Sulaiman. The President mentioned that a lot of the Institute's initiatives

may not have been possible had the Institute not moved to Bangunan Sulaiman. The President also thanked the Institute's previous landlord for support all these years before the Institute's move to Bangunan Sulaiman.

- 1.16 The Institute has had a busy year and expect an even busier year ahead. The Council looks forward to serving all members and the Institute. The President urged all members to contribute and get involved in the activities of the Institute.

**2.0 TO CONFIRM MINUTES OF THE 24<sup>TH</sup> ANNUAL GENERAL MEETING FOR THE YEAR 2016/2017**

- 2.1 The President presented the Minutes of the 24<sup>th</sup> AGM held on 29 June 2016 for adoption.

- 2.2 The President ran through the minutes page by page with the members of the floor.

- 2.3 There are amendments highlighted by few of the members as below:

- 2.3.1 Item 2.0 should read as follows:

It should be recorded as follows:

**2.0 TO CONFIRM MINUTES OF THE 23<sup>RD</sup> ANNUAL GENERAL MEETING FOR THE YEAR 2014/2015**

- 2.3.2 Item 5.1 should read as follows:

	<u>Position</u>	<u>Candidate</u>	<u>Proposer</u>	<u>Seconder</u>
1)	Council Member	Mr Gregory Vinesh Das	Sudharsanan Thillainathan	Victoria Loi

- 2.4 The Minutes of the 24<sup>th</sup> AGM were confirmed and passed as amended by Mr Isacc Sunder Rajan and seconded by Mr Gregory Vinesh Das.

**3.0 TO RECEIVE THE COUNCIL'S REPORT ON THE WORKING OF THE INSTITUTE DURING THE YEAR 2016/2017**

- 3.1 The President presented the Annual Report and highlighted some of the details. The Annual Report was opened to the floor for comments.

- 3.2 There being no comments from the floor, the report was adopted as proposed by Mr Isacc Sunder Rajan and seconded by Mr Ooi Huey Miin.

**4.0 TO RECEIVE THE TREASURER'S REPORT AND THE AUDITED ACCOUNTS OF THE INSTITUTE FOR THE YEAR ENDING 31 DECEMBER 2016**

4.1 Mr Wong Wee Hong, the Hon. Treasurer, presented the Annual Accounts. He pointed out that the Institute's financial position for year 2016 was slightly lower than 2015 due to less talks held during the year, no big conference and also there is no longer room rental income. On the brighter side, there is an increase in Fixed Deposit placements as the Institute managed to reduce monthly operating expenses.

4.2 The Annual Accounts was opened to the floor for comments.

Mr Ooi Huey Miin pointed out that the collection for the DIA programme for 2016 (RM48,000.00) was higher than 2015 (RM14,000.00). Mr Wong explained that the reason for this was because some of the 2015 payments for the DIA programme were only received from Brickfields Asia College (BAC) in 2016.

There being no further comments from the floor, the Treasurer's Report and Audited Accounts was adopted as proposed by Ms Sharon Chong Tze Ying and seconded by Ms Karen Ng Gek Suan.

**5.0 ELECTION OF OFFICE BEARERS AND ORDINARY COUNCIL MEMBERS FOR THE YEAR 2017/2019 PURSUANT TO RULES 15.5 TO 15.7 OF THE RULES OF THE INSTITUTE IN RESPECT OF THE FOLLOWING POSITIONS:**

- (a) President**
- (b) Deputy President**
- (c) Vice President**
- (d) Honorary Secretary**
- (e) Honorary Treasurer**
- (f) Four (4) Ordinary Council Members**

5.1 The President announced that at close of nomination on 7 June 2017 at 6.00 pm, the following candidates were nominated for the following positions:-

	<u>Position</u>	<u>Candidate</u>	<u>Proposer</u>	<u>Seconder</u>
1)	President	Sudharsanan Thillainathan	Kevin Prakash	Victoria Loi
2)	Deputy President	Karen Ng Gek Suan	Sudharsanan Thillainathan	Rajendra Navaratnam
3)	Vice President	Gregory Vinesh Das	Sudharsanan Thillainathan	Victoria Loi
4)	Hon. Secretary	Wan Syarihah Razman	Mohanadass Kanagasabai	Kevin Prakash
5)	Hon. Treasurer	Verghese Aaron Mathews	Sudharsanan Thillainathan	Gregory Vinesh Das

- 5.2 In respect of the Honorary Secretary, the President made a disclosure that the nomination for Ms Wan Syarihah Razman was received at 6.15 pm. Since this was beyond the set deadline, the President sought the members' consideration to accept the nomination. There being no objections from the floor, the nomination for Ms Wan Syarihah Razman was accepted.
- 5.3 All persons nominated for positions as Office Bearers were elected as these positions were uncontested.
- 5.4 There were 4 positions available for Ordinary Council Member. The President welcomed members to volunteer themselves to take the post. Alternatively, the Council may appoint and co-opt the Ordinary Council Members at the next Council Meeting.
- 5.5 The President welcomed all to the Council.

**6.0 TO APPOINT TWO (2) HONORARY AUDITORS FOR THE YEAR 2017/2018**

- 6.1 The President explained the nature of the post and also invited those present to volunteer themselves.
- 6.2 Ms Karen Ng Gek Suan proposed Ms Sharon Chong Tze Ying and seconded by Mr Isacc Sunder Rajan.
- 6.3 Mr Lam Ko Luen proposed Mr Wong Wee Hong and seconded by Ms Hor Shirley.
- 6.4 Ms Sharon Chong Tze Ying and Mr Wong Wee Hong were unanimously appointed as Hon Auditors for the ensuing year.

**7.0 TO RE-APPOINT THE EXTERNAL AUDITORS, M/S WONG WENG FOO & CO**

- 7.1 The re-appointment of M/s Wong Weng Foo & Co as the external auditors for the ensuing year was proposed by Mr Ooi Huey Miin and seconded by Mr Isacc Sunder Rajan and unanimously agreed by members present.

**8.0 TO DEAL WITH SUCH OTHER MATTERS AS MAY BE PRESENTED**

- 8.1 The President welcomed any suggestions, ideas and proposal from members on activities that the Institute should embark on in the coming year.
- 8.2 Mr. Sudharsanan Thillainathan recorded his appreciation to the previous Council for all their support, effort and contribution to the Institute for the past year, including Past President, Mr Lam Ko Luen, Imm. Past President, Mr Kevin Prakash (who has served on the council for many years), the Imm. Past Vice President, Ms Hor Shirley and Hon. Secretary, Ms Victoria Loi Tien Fen (who have served with great

distinction), the Imm. Past Hon. Treasurer, Mr. Wong Wee Hong (whom Mr Sudharsanan had hoped to have remained on the Council), Imm. Past Council Member, Ms Sharon Chong Tze Ying (for her excellent contribution) and the Administrative Executive, Ms Raja Junaidah Raja Aris.

- 8.3 The Deputy President, Ms Karen Ng Gek Suan recorded a note of thanks to Mr Lam Ko Luen, Mr Kevin Prakash, Ms Hor Shirley and Ms Victoria Loi Tien Fen. Ms Ng mentioned that the Institute will continue with the evening/afternoon talks, foster further collaborations, continue collaborating with CIDB, reach out of Kuala Lumpur, generate more income for the Institute etc.
- 8.4 The Vice President, Mr Gregory Vinesh Das mentioned that he aligned himself with Ms Ng and Mr Sudharsanan in recording a note of thanks to the outgoing council. Mr Das invited all to “like” the Institute’s Facebook page. He mentioned that as Vice President, his focus would be to promote the law and practice of arbitration and ADR including a debate series on topical issues in ADR and to extend the reach and presence of the Institute in the country and regionally.
- 8.5 Ms Wan Syariah Razman thanked all present. She mentioned that she had served in 2008, 2009 and 2010 and had not been in council for some time. She mentioned that she looked forward to serving the Institute and what is in store.
- 8.6 Mr Verghese Aaron Mathews mentioned that he had been a member of the Institute for a number of years and that he was previously co-opted as a Council Member. He also mentioned that as the Honorary Treasurer, there is more to do and to contribute and that he will look into other ways of increasing revenue for the Institute.
- 8.7 There was some feedback that some of the senior members of the Institute preferred receiving hard copies of the newsletter. It was further suggested that a survey could be conducted a month or two months prior to the release of the next newsletter to ascertain how many members preferred receiving a hard copy of the newsletter.
- 8.8 Mr Kevin Prakash thanked the following:-
- (a) Kuala Lumpur Regional Centre for Arbitration (KLRCA) for supporting the Institute;
  - (b) Mr Sudharsanan Thillainathan for organising events;
  - (c) Ms Hor Shirley for putting together the DIA programme;
  - (d) Ms Victoria Loi Tien Fen for keeping administrative matters together;
  - (e) Mr Wong Wee Hong for tightening the Institute’s finances, especially when the previous Administrative Executive had left;
  - (f) Mr Gregory Vinesh Das for setting up the Institute’s Facebook page;
  - (g) Ms Dawn Wong Keng Jade who has been very helpful;
  - (h) Ms Sharon Chong Tze Ying who drove the collaboration with the State Bar which hopefully may be replicated;
  - (i) Ms Karen Ng Gek Suan who has put in a lot of work especially in relation to the collaboration with KLRCA and CIDB; and
  - (j) Mr Verghese Aaron Mathews came in and worked on the Membership Upgrade Course.



Mr Kevin Prakash remarked that this council has put in so much effort. Mr Kevin Prakash also accorded a special and final thanks to the Institute's Administrative Executive, Raja Junaidah Raja Aris and wished good luck to the new council.

There being no other matters, the AGM was called to a close at 7.50 pm.

President,

Hon. Secretary,

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**Mr Kevin Prakash**

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**Ms Victoria Loi**

Date: