

KLRCA

CODE OF CONDUCT FOR MEDIATOR

1. General

For the purpose of this Code of Conduct, 'KLRCA Rules' means KLRCA Mediation Rules.

2. Appointment

2.1 When approached with an appointment, a Mediator shall conduct reasonable enquiries with regard to potential conflict of interest that may arise from his appointment for that particular matter that may affect impartiality and independence. The International Bar Association (IBA) Guidelines on Conflict of Interest will be a point of reference in determining the disclosure requirement and whether a Mediator is conflicted.

2.2 A Mediator shall only accept an appointment if he is fully satisfied that he is independent of the parties at the time of the appointment, and are able to remain so until a settlement agreement has been reached, able to discharge his duties without bias, has adequate knowledge of the language of the proceeding, has adequate experience and ability for the case at hand, and is able to give to the proceeding the time and attention which parties are reasonably entitled to expect.

3. Disclosure

3.1 A prospective Mediator shall disclose to KLRCA, the Parties and/or co-panellist (if any) of all facts or circumstances that may give rise to justifiable doubts as to his impartiality or independence as soon as the information becomes available.

3.2 The International Bar Association (IBA) Guidelines on Conflict of Interest will be a point of reference in determining the disclosure requirement and whether a Mediator is conflicted.

3.3 Before accepting appointment, a prospective Mediator must disclose:

- a. Any past or present close personal relationship or business relationship, whether direct or indirect, with any party to the dispute, or any representative of a party;

- b. The extent of any prior knowledge he may have of the dispute.
- 3.4 Following such disclosure, the Director shall reassess the suitability of the Mediator for the matter at hand and retains the discretion to appoint a different Mediator.
- 3.5 This duty of disclosure shall continue throughout the mediation with regard to new facts and circumstances.
- 3.6 Failure to disclose may be a basis of removal as KLRCA Panellist even if the non-disclosed facts or circumstances are not one that justifies removal or disqualification.

4. Communications

- 4.1 Before accepting an appointment, a Mediator may only enquire as to the general nature of the dispute, the names of the parties, the amount in dispute and the expected time period required for the proceeding.
- 4.2 No Mediator shall confer with any of the parties or their counsel until after the Director gives notice of the appointment of the Mediator.
- 4.3 Any correspondence and communication between the Mediator and parties shall remain private and confidential and shall not be copied to anyone other than the parties to the dispute and KLRCA, unless the parties agree otherwise.

5. Conduct during proceedings

- 5.1 A Mediator shall at all times keep KLRCA informed on the status of the proceedings.
- 5.2 Before proceeding, a Mediator shall always check with KLRCA with regard to the deposits made by each party.
- 5.3 Once the mediation proceedings commence, the Mediator shall acquaint himself with all the facts and arguments presented and all the discussions relative to the proceedings so that he may properly understand the dispute.
- 5.4 A Mediator shall decide all the issues submitted for determination after careful deliberation and the exercise of his own impartial judgment and shall not permit outside pressure, fear of criticism or any form of self-interest to affect his decisions.

6. Fees

- 6.1 For matters conducted under KLRCA Rules, a Mediator must adopt the KLRCA Scale of Fees and adhere to KLRCA's Guidelines for costs and disbursements. However a Mediator may adopt a different scale of fees subject to the agreement of parties as provided for in KLRCA Rules.
- 6.2 In the event parties agree to adopt a different scale of fees, a Mediator must disclose and explain the basis of his fees and expenses to the parties on or before the first mediation session.
- 6.3 Immediately after the first mediation session, the Mediator shall notify KLRCA, in writing, of the agreed fees and expenses.
- 6.4 The Mediator shall keep KLRCA informed, in writing, of any changes in the amount of dispute during the proceeding as it affects the scale of fees applicable.

7. Confidentiality

- 7.1 The proceedings shall remain confidential. A Mediator is in a relationship of trust to the parties and should not, at any time, use confidential information acquired during the course of proceedings to gain personal advantage or advantage for others, or to affect adversely the interest of another.
- 7.2 This Code of Conduct is not intended to provide grounds for the setting aside of any settlement agreement.