

## **BIAC MEDIATORS' CODE OF CONDUCT**

The BIAC Mediators Code of Conduct ("the Code") provides the guiding principles for the mediators:

- of BIAC's Panel; and/or
- Directory; and/or
- Mediators in mediation administered by BIAC; and/or
- The mediators who conducted mediation as per provisions of BIAC Mediation Rules.

It sets the standards for protection of interests of parties using mediation services at BIAC, and for enhancement of confidence in BIAC's mediation services as a neutral, impartial, efficient, expeditious and independent alternative dispute resolution method.

### **1. General principles**

The Mediator shall:

#### **a) Acknowledge that mediation is based on principles of self-determination by the parties-**

The mediation process relies upon the ability of parties to reach a voluntary agreement to resolve their dispute. Mediator will encourage the parties to make their own choices and bear the responsibility thereof. The Mediator shall not advise any party to adopt any specific course on any issue at dispute, nor shall he express any opinion on such matters. If necessary, a Mediator may inform the parties about the option of consulting advisers or experts during mediation.

#### **b) Act in an independent, neutral and impartial way-**

The Mediator's independence, neutrality and impartiality are central to the mediation process. A Mediator who has an interest in the mediation should not accept his appointment or withdraw, if appointed. The quality of the mediation process is enhanced when the parties have confidence in the impartiality, independence and neutrality of the mediator. A Mediator shall disclose any interest or relationship likely to affect independence, neutrality or impartiality or which may be considered as a sign of bias.

#### **c) Cause enquiry into and disclose conflict of interest, if any –**

- (i) When approached with a proposal for an appointment, a prospective Mediator shall conduct reasonable enquiries with regard to conflict of interest, including close personal or business relationships, from her/his appointment that may affect her/his impartiality and independence.
- (ii) After accepting appointment, and until the mediation process ends, Mediators will not enter into financial, business, professional, family or

social relationships or acquire financial or personal interests that are likely to affect or might reasonably create the appearance of conflict of interest, partiality or bias, without making a prior disclosure to all the parties and gaining their consent.

**d) Possess necessary qualifications, experience and training to mediate-**

Parties should be satisfied with the mediator's competence to mediate the dispute. A mediator while communicating with parties shall be truthful regarding his qualification, experience, training, skill and competence. He shall not give any assurance regarding the outcome of any mediation.

**e) Maintain confidentiality in mediation process-**

(i) A Mediator shall maintain confidentiality during mediation proceedings, and even after termination of mediation. Any information, including verbal and written exchanges, obtained during mediation shall not be disclosed outside of the mediation, during or after the termination of the mediation, unless the parties have authorized such disclosure in writing. A few exceptions to Mediators' duty of confidentiality are listed at Rule 16(b) of BIAC Mediation Rules.

(ii) A Mediator is in a relationship of trust with the parties and must not, at any time, use confidential information acquired during the course of proceedings to gain personal advantage for himself or others, or to affect adversely the interest of another.

**f) Conduct the mediation fairly, in a manner consistent with the BIAC Rules of Mediation and with due diligence-**

The Mediator will not carry on any activity or conduct himself in a manner unbecoming of a Mediator. He will uphold the integrity and fairness of the mediation process; ensure that the parties involved in the mediation are fairly informed and have an adequate understanding of the procedural aspects of the process; avoid, while communicating with the parties, any impropriety or appearance of impropriety.

**2. Mediator's communications with the parties**

**a)** Before accepting an appointment, a Mediator may only enquire as to the general nature of the dispute, the names and particulars of the parties, and the expected time period required for the proceeding.

**b)** No Mediator shall confer with any of the parties or their counsel until after receipt of the notice of appointment as Mediator.

**c)** All 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 BIAC, unless the parties agree otherwise.

**3. Mediator's conduct during mediation proceedings**

- a) A Mediator shall at all times keep BIAC informed of the status of the proceedings.
- b) The Mediator will ensure that, before the mediation begins, the parties have understood and agreed to the terms and conditions which will govern the mediation including those relating to obligations of confidentiality on the Mediator and on the parties.
- c) Once the mediation proceedings commence, the Mediator shall acquaint himself with all the facts and arguments presented and all the discussions relating to the proceedings, so that he may properly understand the dispute and assist the parties to reach a settlement.

**4. Fees**

- a) A Mediator shall adopt the Annex
- b) A Mediator shall not enter into a fee agreement with any party contingent upon the result of the mediation or amount of settlement.

**5. Exclusion from BIAC's Panel of Mediators**

Failure to conform to this Code may be a basis of removal or disqualification of the Mediator from the Mediation process and removal from BIAC's Panel of Mediators, after giving the Mediator an opportunity to explain. Any decision of BIAC Council in this regard will be final and binding.

**6. Miscellaneous**

- a) This Code of Conduct is for the guidance of the Mediator, and shall not be used as grounds for the setting aside of any settlement agreement.
- b) Should any question arise regarding the interpretation of any provision in this Code, the decision of BIAC shall be final.
- c) This Code may be amended or modified by BIAC at any time without prior notice.