

## **Rules for KCDR Registered Mediators**

*Whereas* the purpose of mediation is, by way of a meeting between the parties to a dispute, to create between them a discussion, to recreate the conditions for a dialogue and to generate proposals that may lead to an agreement;

*Whereas* recourse to mediation as a means to find solutions for certain types of conflicts, is to be encouraged; and that, on the other hand, one must not tolerate the use of means that, under cover of mediation, have, as a direct or indirect purpose, to harm the interests of the psychologically or economically weakest party, and that do not call for the intervention of a mediator that is not independent from the parties to the dispute;

*Whereas* the Karachi Centre for Dispute Resolution, a non-profit organization, aims at promoting recourse to mediation to solve business disputes and at organizing a proper structure for allowing a mediation process to take place in favorable conditions;

Whereas mediation must be performed by competent persons and professionally trained in mediation for conflicts that they are called to help resolving;

*Whereas* professional secrecy and trust in the fact that it will be abided by constitutes a fundamental condition for the success of a mediation process;

*Whereas* the parties to mediation must, contractually, agree to the fact that everything in the process in which they shall participate under the auspices of Karachi Centre for Dispute Resolution will remain entirely confidential;

*Whereas* the mediator shall always remain strictly neutral, irrespective of the mediation techniques used.

Karachi centre for Dispute Resolution has adopted following rules of business for mediators.

### **Definitions**

1. In these rules, unless the contents otherwise requires,
  - a. “KCDR” means the Karachi Centre for Dispute Resolution;
  - b. “Board” means the Board of Governors of KCDR and appointed as such under the constitution and bye-laws of KCDR;
  - c. “Chairman” means any person elected as such by the Board;
  - d. “Director” means a person appointed by the Chairman of KCDR or the Board to oversee daily activities of KCDR and take managerial decisions.
  - e. “Case Administrators” mean persons appointed as such by Chairman of KCDR and who are responsible for management of cases at KCDR and other activities.

- f. “Mediation” means the process of using a neutral third party to help parties resolve a dispute according to internationally accepted practices;
- g. “Mediation Agreement” means a written agreement between the parties, mediator(s), and KCDR to agree upon the use of mediation services;
- h. “Mediator” means a neutral person(s), registered at KCDR and having achieved accreditation in mediation training from any National or International registered institute duly recognized by KCDR, engaged to help the parties to resolve a dispute. Mediator also includes in-house mediator(s) and assistant/co-mediator(s) who are registered mediator(s) and are asked to support mediator(s) in a dispute;
- i. “Settlement Agreement” means a written agreement signed and executed by the parties as a result of successful resolution of a dispute or part thereof.
- j. “Rules” means the Rules of Business for Mediators of KCDR for dispute resolution duly approved by the Board and includes the rules so modified from time to time.

## **Rules**

- 2. The Rules set forth herein shall be binding upon mediators who accept the offer from KCDR to mediate disputes.

## **Appointment of Mediator**

- 3. Upon a case being received by KCDR for mediation, KCDR’s Director or Chairman or any other person authorized by Chairman shall appoint a mediator to mediate the dispute. Should that mediator not be acceptable to

the parties or should that mediator have a conflict of interest or resign, another mediator shall be appointed by KCDR in the same manner.

4. In the event of the Director or Chairman or any other person authorized by Chairman appointing a Mediator, performance of the mediator in mediations, his/her professional experience and expertise shall be taken into account.
5. Should the parties themselves propose a mediator, that mediator shall be appointed as long as he or she is a registered accredited mediator with KCDR and parties have no ethical and bias concerns pertaining to the proposed mediator.
6. KCDR in consultation with lead mediator may appoint a co-mediator/assistant mediator for a case. In such an event, professional fee of mediator and co-mediator/assistant shall be discussed by the mediators concerned.
7. Prior to accepting mediation appointments, all mediators shall disclose the fact of having any conflict of interest in the dispute and any circumstances likely to give rise to a presumption of bias.
8. Before attending the mediation session, the mediator shall have a pre-mediation meeting with the Director or Chairman or any other person authorized by Chairman for discussing and agreeing on procedure of mediation.

### **Mediations and Case Management:**

9. The mediator shall execute together with the parties a Mediation Agreement, as prescribed by KCDR, setting out the terms and conditions under which the mediation shall take place.

10. KCDR shall appoint a time and date for mediation sessions in consultation with mediators, parties and their representatives.
11. All mediations sessions shall commence at 9.30 am and continue throughout the day.
12. Mediators shall focus on mediations and conclude mediations as far as possible on the same day.
13. In addition to abiding by the Mediators Code of Conduct, mediators shall also manage case diaries and ensure that the same are complete and updated with progress of the mediation being conducted.
14. Upon completion of mediation, mediators shall submit mediation report and the case file(s) to case administrator(s) within 3 days.
15. All mediators shall ensure that parties and lawyers feedback forms are submitted to case administrator(s) on conclusion of mediation.
16. The mediator shall report to the Director of KCDR or any other person authorized by Chairman or case administrator(s) on progress of mediation.
17. In event of unavoidable circumstances and in case the mediation is re-scheduled, the mediator shall keep the Director of KCDR or any other person authorized by Chairman or case administrator(s) informed on reasons for rescheduling the case and maintain case diary accordingly.
18. The Director shall have the discretion and authority to support parties involved in mediation and overcome obstacles in progress of mediations.
19. In case of failure of mediation, the mediator shall inform the Director or any other person authorized by Chairman or case administrator(s) before declaring to the parties that the case has failed. In such a case, the Director or any other person authorized by Chairman shall try to resolve the case

himself/herself before declaring it finally “failed” and if need be refer it to another mediator.

20. In event of a successful mediation, the mediator shall draft a settlement agreement and secure signatures of the parties as far as possible on the same day.

**Fees and Expenses**

21. The mediator shall be entitled to receive his fee from KCDR as per following table.

<b>Case Value (PKR)</b>	<b>Fee per party</b>	<b>Total Fee</b>	<b>KCDR fee ratio (%)</b>	<b>Mediator fee ratio (%)</b>
Up to 1 million	7,500	15,000	30	70
1-2 million	15000	30,000	30	70
2-3 million	22,500	45,000	35	65
3-4 million	30,000	60,000	40	60
4-5 million	37,500	75,000	40	60
5-6 million	45,000	90,000	45	55
6 million & above	50,000	100,000	50	50

22. The Chairman may waive off the fee or any part thereof of any or both parties to the dispute keeping in view the financial condition of the party(s). In such an event, the mediator shall be informed about the waiver and will have the right to withdraw himself/herself from any such mediation unless he/she wishes to mediate the case on pro bono basis.

23. KCDR shall process payment of mediation fee on receipt of:

- (i) mediation report upon completion of a mediation; or
- (ii) settlement agreement upon successful conclusion of mediation; or
- (iii) client's and lawyers feedback forms upon completion of a mediation

### **Termination of Mediators from KCDR**

24. Registration of mediator at KCDR shall terminate when:

- (i) mediator breaches mediator's code of conduct; or
- (ii) breaches rules;