

SINGAPORE MEDIATION CENTRE
ADJUDICATION UNDER THE BUILDING AND CONSTRUCTION INDUSTRY SECURITY OF
PAYMENT ACT (CAP 30B)(REV ED 2006)

ADJUDICATOR CODE OF CONDUCT

This Code of Conduct (“**Code**”) applies to all persons appointed by the Singapore Mediation Centre (“**SMC**”) to act as Adjudicators pursuant to the Building and Construction Industry Security of Payment Act (Cap 30B)(Rev Ed 2006) (the “**Act**”) and the Building and Construction Industry Security of Payment Regulations 2005 and the Building and Construction Industry Security of Payment (Amendment) Regulations 2012 (collectively referred to as the “**Regulations**”).

1 Acceptance of Assignment

- 1.1 An Adjudicator will, before accepting an appointment to a case, ensure that he is able to conduct the adjudication or adjudication review independently, impartially and expeditiously.
- 1.2 For the avoidance of doubt, any reference to adjudication in this Code shall also refer to an adjudication review.

2 Impartiality

- 2.1 An Adjudicator will be impartial and fair to the parties, and be seen to be so. Following from this, he will disclose to SMC and, if he is nevertheless appointed by SMC, to the parties, any information which may lead to the impression that he may not be impartial or fair, including, that:
- (a) he (*or any member of his firm or company*) has acted in any capacity for any of the parties;
 - (b) he has a financial or any other interest (*direct or indirect*) in any of the parties or the outcome of the adjudication; or
 - (c) he has any confidential information about the parties or the matter which is the subject of the adjudication derived from sources outside the adjudication proceedings.
- 2.2 If SMC offers an Adjudicator an appointment for which there is an actual, potential or apparent conflict of interest between the Adjudicator and any of the parties, the Adjudicator shall disclose this to SMC.
- 2.3 If, at any stage during the adjudication proceedings, new circumstances arise that could give rise to doubt as to the impartiality or independence of the Adjudicator, he shall promptly disclose such circumstances to SMC. In such event, SMC shall have the discretion to appoint a substitute Adjudicator.
- 2.4 An Adjudicator shall not accept an appointment if he is ineligible by virtue of the Act or the Regulations.

- 2.5 When in doubt, an Adjudicator shall refer the matter to SMC.
- 2.6 An Adjudicator (*or any member of his firm or company*) shall not act for any of the parties subsequently in any matter related to or arising out of the subject matter of the adjudication without the written informed consent of all the parties.

3 The Adjudication Procedure

- 3.1 An Adjudicator will act in accordance with the Act, the Regulations and the prevailing SMC Adjudication Procedure Rules.

4 Confidentiality

- 4.1 Any document or information supplied for and/or disclosed in the course of the adjudication will be kept confidential. An Adjudicator will only disclose the same if required to do so by law, or pursuant to an order of a court, or with the consent of all the relevant parties.
- 4.2 An Adjudicator shall not act as a consultant or arbitrator in any proceedings in relation to the subject matter of the adjudication.
- 4.3 Unless all the parties agree, an Adjudicator shall not act as a witness or expert in any proceedings in relation to the subject matter of the adjudication.

5 Preparation and Diligence

- 5.1 The Adjudicator will prepare himself appropriately before the commencement of the adjudication.
- 5.2 An Adjudicator should carry out his role in a conscientious and diligent manner.

6 Compliance with Act

- 6.1 The obligations found in this Code are over and above the obligations of Adjudicators under the Act and the Regulations. An Adjudicator must comply with the requirements of the Act and the Regulations.

7 Withdrawal

- 7.1 In the event that an Adjudicator is requested to withdraw because of prejudice or bias, the Adjudicator should withdraw unless, the Adjudicator after carefully considering the matter and in consultation with SMC, determines that:
- (a) the reason for the challenge is not substantial;
 - (b) the Adjudicator can act and decide the case impartially and fairly; and
 - (c) the withdrawal would cause unfair delay or expense or would be contrary to the ends of justice.

- 7.2 An Adjudicator may, with the concurrence of SMC, withdraw from a case if:
- (a) any of the parties breaches the prevailing SMC Adjudication Procedure Rules, the Act or the Regulations; or
 - (b) the parties allege that he is in breach of the terms of this Code.

The Adjudicator shall, on the occurrence of (a) or (b) above, consult SMC on whether he should continue to act as Adjudicator for the case.

8 Fees

- 8.1 In accepting an appointment, the Adjudicator expressly agrees to the remuneration fixed by the Act, and he shall not make any unilateral arrangements with any of the parties for additional fees. In addition, the Adjudicator agrees to pay SMC a management fee being a prescribed percentage of the Adjudicator Fee.
- 8.2 SMC is not liable to the Adjudicator for any or any part of the Adjudicator Fee due to the Adjudicator under the Act and the Regulations. The Adjudicator will only be paid the Adjudicator Fee when SMC has obtained full payment of the Fees and has released the adjudication determination or adjudication review determination.

9 Complaints and Complaints Procedure

- 9.1 If a party to the adjudication or a party with a legitimate interest in the adjudication lodges a complaint against the Adjudicator, such complaints shall be dealt with in accordance with the complaints procedure set down by the SMC. The Adjudicator shall be given an opportunity to respond in writing to the complaint, and agrees to be bound by the decision of the Complaints Panel.
- 9.2 Any party wishing to make a complaint against an appointed Adjudicator shall be required to make such a complaint in writing to SMC and in such detail as is necessary for an investigation to proceed. For the avoidance of doubt, no investigation shall be commenced unless the complaint refers to the appropriate section(s) of the Act, Regulations or Code under which the complaint is made and accompanied by the relevant documents or other evidence necessary for the investigation to proceed.
- 9.3 Complaints received about an Adjudicator will be considered first by SMC as to whether an investigation is necessary and if so, thereafter, be referred to a Complaints Panel.
- 9.4 If the complaint is to be referred to a Complaints Panel, a copy of the complaint will be made available to the Adjudicator concerned and the Adjudicator shall have fourteen (14) days (or such longer time as may be extended by the SMC) to submit a reply to the complaint. Such reply shall be forwarded to the Complainant and the Complaints Panel. The Complaints Panel shall have the power to direct the determination of the complaint, including directing the Complainant and/or the Adjudicator to attend before the Complaints Panel.

9.5 The Complaints Panel shall make a decision on the complaint. The decision of the Complaints Panel shall be final and conclusive. The Complaints Panel may take the appropriate action, including but not limited to:

- (a) take no further action on the complaint;
- (b) reprimand and / or issue a written warning;
- (c) revoke or suspend the accreditation of the Adjudicator for a specified period; or
- (d) decline to renew the appointment of the Adjudicator.

10 Performance Criteria

10.1 SMC may take such action as it deems appropriate where an Adjudicator fails to meet any of the following criteria:

- (a) respond to a request for appointment as Adjudicator within one (1) day of the request being made;
- (b) deliver determinations within the timelines prescribed by the Act and the Regulations; or
- (c) adhere to the terms of this Code.

11 Appointment / Renewal of Term as an Adjudicator

11.1 SMC may, in its absolute discretion:

- (a) reject the application of an individual who has completed the Adjudication Accreditation Exercise to become a SMC accredited Adjudicator; and
- (b) choose not to renew the term of an existing Adjudicator,

if the Adjudicator is found to be convicted, in Singapore or elsewhere, of any offence involving fraud or dishonesty punishable on conviction with imprisonment for three (3) months or more.