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# **CODE OF PROFESSIONAL ETHICS OF THE MEDIATOR**

**OF THE MARITIME  
ARBITRATION  
COMMISSION**

at the Ukrainian  
Chamber of Commerce  
and Industry

KYIV 2023



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Approved  
by the Decision of the Presidium  
of the Maritime Arbitration  
Commission  
at the Ukrainian Chamber of  
Commerce and Industry dated  
07 December 2022

## **CODE OF PROFESSIONAL ETHICS OF THE MEDIATOR OF THE MARITIME ARBITRATION COMMISSION AT THE UKRAINIAN CHAMBER OF COMMERCE AND INDUSTRY**

### **PREAMBLE**

This Code is developed on the basis of the European Code of Conduct for Mediators.

The purpose of this Code is to establish the ethical foundations of the professional activity of a mediator in order to ensure uniform requirements for the provision of quality mediation services by the mediators in the Maritime Arbitration Commission at the Ukrainian Chamber of Commerce and Industry (hereinafter – the UMAC at the UCCI).

The mediators of the UMAC at the UCCI are obliged to comply with the provisions of this Code and to inform the mediation participants about the compliance therewith.

## **I. BASIC PRINCIPLES OF PROFESSIONAL ETHICS OF A MEDIATOR**

### **1.1. COMPETENCY**

The mediator must be competent and well-versed in the mediation procedure, Ukrainian legislation on mediation and standards of mediation practice, including mediation of international commercial and/or investment disputes. This also involves proper training, continuous updating of knowledge and mediation practices in accordance with the standards and principles of accreditation of mediators.

The mediator is entitled to conduct the mediation procedure only if he has sufficient qualifications to meet the justified expectations of the parties.

## 1.2. INDEPENDENCE AND NEUTRALITY

The mediator must be independent from the influence of third parties on the procedure and outcome of the mediation. The mediator must be a neutral person who is not interested in the content and outcome of the dispute settlement.

The person who is proposed to accept the functions of a mediator is obliged to inform the UMAC at the UCCI and the parties of a conflict of interests or other circumstances that may cause reasonable doubts about his independence, impartiality and/or neutrality in the settlement of a specific dispute. If such circumstances become known to the mediator during the mediation, he must immediately notify the UMAC at the UCCI and the parties accordingly. His further performance of the mediator's functions is subject to a mutual agreement of the parties to the mediation, based on the results of consideration of the relevant notification from the mediator.

## 1.3. IMPARTIALITY

The mediator must always act impartially and make every effort to be perceived as impartial, and work equally and thoroughly with all parties in the course of the mediation.

The mediator must be impartial in his attitude to the parties, facts, judgments in the conflict (dispute), consciously leaving aside his own stereotypes and his own life experience. The mediator shall not have the right to evaluate the behaviour and views of the parties to the mediation, except for their clear violation of legal and/or ethical norms or the procedure for conducting the mediation. At the same time, indicating that the parties have violated legal norms or the procedure for conducting mediation shall not constitute a loss of neutrality by the mediator.

The mediator shall conduct mediation only in those cases where he is able to remain neutral and objective and conduct the procedure in the interests of both parties. At any time, if the mediator is unable to conduct the process neutrally, he must terminate the mediation by making a statement to that effect.

## 1.4. VOLUNTARINESS

The mediator voluntarily participates in the mediation of a specific dispute and makes a decision to withdraw from the mediation. The decision to participate or withdraw is taken by the mediator responsibly, taking into account the conditions and circumstances of the situation. The mediator shall not be obliged to explain to the parties the reason for his withdrawal, however may do so of his own free will.

The mediator shall inform all the mediation participants of the importance of observing the principle of voluntariness regarding participation in the mediation by all the participants in the process and, in accordance with the law, the inadmissibility of coercion to settle the dispute through mediation.

## 1.5. SELF-DETERMINATION

The mediator shall inform all the mediation participants of the importance of observing the principle of self-determination and of equal rights of the parties to the mediation.

The mediator shall facilitate the clarification of the interests and needs of the parties by organizing the process and promoting the self-determination of the parties in order to reach a mutually acceptable solution, while the reconciliation of the parties shall be only one of the possible solutions.

## 1.6. CONFIDENTIALITY

The mediator shall comply with the confidentiality requirements as defined by the Law of Ukraine “On Mediation”, other legislation and this Code.

The mediator is obliged to maintain confidentiality regarding all information received in the course of or in connection with the mediation process, including the very fact that such mediation took place or will take place, except when the disclosure of such information is required by law or on the basis of public order, or when all the parties to the mediation consent to such disclosure. Any information received by the mediator from one of the parties in the framework of confidentiality shall not be disclosed by him to the other parties without the permission of the former, except when such disclosure is required by law.

The mediator shall also make the parties aware of the need to keep the information obtained in the course of the mediation confidential, and of the fact that the parties are entitled to develop their own confidentiality rules.

The mediator may determine the limits of confidentiality with the parties, as well as may discuss the consequences of violating this principle.

## 1.7. ETHICS OF RELATIONS BETWEEN MEDIATORS

Professional interaction between mediators is built on the principles of mutual respect, integrity, respect for human rights and the rights of mediators.

The mediator may not use tactless and/or humiliating statements and/or those that degrade his honour and dignity, damage his business reputation, in relation to another mediator.

The mediator shall refrain from evaluating another mediator, including in the case of mediation by several mediators (co-mediation), in communication with the mediation parties.

## 1.8. ETHICS OF RELATIONS BETWEEN MEDIATORS AND ARBITRATORS OF THE UMAC AT THE UCCI

Professional interaction between mediators and arbitrators of the UMAC at the UCCI is built on the principles of mutual respect, integrity, and respect for human rights.

Mediators and arbitrators of the UMAC at the UCCI may not allow tactless and/or humiliating statements about each other, and/or those that degrade their honour and dignity, harm their business reputation.

Mediators and arbitrators of the UMAC at the UCCI shall refrain from evaluating each other's activities, including regarding the resolution of disputes at the UMAC at the UCCI.

## 1.9. THE ACTION OF THE PRINCIPLES

The principles of professional ethics of the mediator specified in this Section apply to all forms and types of activities of the mediator, all stages of preparation

and conduct of mediation in accordance with the Rules of Mediation of the UMAC at the UCCL, in particular while using hardware and/or software tools of digital communication.

## II. MEDIATION STANDARDS

### 2.1. INITIATION AND CONDUCT OF MEDIATION

The mediator shall make sure and take all necessary measures so that even before the commencement of the mediation, the parties clearly understand the procedure for conducting mediation in the UMAC at the UCCL, as well as the role of the mediator and the parties themselves in this process.

The mediator shall properly conduct the mediation, taking into account the various circumstances of the case, including the possible imbalance of power and rules of law, as well as take into account any wishes of the parties and take into account the need for a quick settlement of the dispute.

### 2.2. FAIRNESS OF THE MEDIATION PROCESS

The mediator shall be the guarantor of the equal opportunities for the parties involved in the mediation process

The mediator is obliged to inform the parties and may terminate the mediation if:

- an agreement is discussed, which, in the opinion of the mediator himself, according to the circumstances of the case and taking into account the competency of the mediator, cannot be fulfilled or will be illegal;
- if in the mediator's opinion the continuation of the mediation is unlikely to lead to a settlement of the dispute.

### 2.3. TERMINATION OF MEDIATION

The mediator shall take all necessary measures to ensure that the parties as a result of the mediation conclude an agreement based on full and reliable information and understanding of the terms of such an agreement.

To the request of the parties, the mediator, within his competency, may inform the parties about the

way they can draw up an agreement based on the results of the mediation and make it enforceable, in particular about the possibility to apply to the UMAC at the UCCI to issue an arbitration award on the agreed terms and conditions.

In the event that the mediation is terminated without a settlement of the dispute or with a partial settlement of the dispute, the mediator shall inform the parties about the possibility of settlement of the dispute using other alternative methods of dispute resolution, in particular by filing a claim with the UMAC at the UCCI.

### **III. LIABILITY OF THE MEDIATOR**

3.1. The mediator shall be liable for non-compliance with the norms of professional ethics established by this Code.

3.2. Complaints about violation of the norms of professional ethics by the mediator shall be considered by the Presidium of the UMAC at the UCCI.

3.3. If the Presidium of the UMAC at the UCCI establishes the fact that a mediator violated the norms of professional ethics, such mediator may be excluded from the Register of Mediators of the UMAC at the UCCI.



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