

CODE OF CONDUCT FOR MUSALEHEEN/CONCILIATORS

PROCEDURE OF MUSALIHAT ANJUMAN:

- (a) The parties may agree on the procedure to be followed by the Musalihat Anjuman conciliators in the conduct of the conciliation proceedings.
- (b) Where the parties do not agree on any particular procedure to be followed by the Musalihat Anjuman, the Musalihat Anjuman shall follow the procedure hereinafter mentioned, namely:
 - (i) Musalihat Anjuman shall fix, in consultation with the parties, a time schedule, the dates and the time of each Musalihat session, where all parties have to be present;
 - (ii) Musalihat Anjuman shall hold the Musalihat session conciliation at a School, Basic Health Unit or any other appropriate public building/convenient location agreeable to them and the parties, as they may determine;
 - (iii) Musalihat Anjuman may conduct joint or separate meetings with the parties;
 - (iv) each party shall, seven days before a session, provide to the Musalihat Anjuman brief memorandum setting forth the issues, which according to it, need to be resolved, and its position in respect to those issues and all information reasonably required for the Musalihat Anjuman to understand the issue; such memoranda shall also be mutually exchanged between the parties;
 - (v) each party shall furnish to the Musalihat Anjuman such other information as may be required by them in connection with the issues to be resolved.

ROLE OF MUSALEHEEN/CONCILIATORS:

The Musaleheen shall attempt to facilitate voluntary resolution of the dispute by the parties, and communicate the view of each party to the other, assist them in identifying issues, reducing misunderstandings, clarifying priorities, exploring areas of compromise and generating options in an attempt to solve the dispute, emphasizing that it is the responsibility of the parties to take decision which effect them; Musaleheen shall not impose any terms of settlement on the parties.

PARTIES ALONE RESPONSIBLE FOR TAKING DECISION:

The parties must understand that the Musaleheen only facilitate in arriving at a decision to resolve disputes and that they will not and cannot impose any settlement nor do Musaleheen give any warranty that the Musalihat Anjuman efforts will result in a settlement. The Musaleheen shall not impose any decision on the parties.

REPRESENTATION OF PARTIES:

Parties may be present before Musalihat Anjuman in respect to those issues and all information reasonably required for the Musaleheen personally or through their lawful power of attorney holders.

CONFIDENTIALITY,DISCLOSURE AND INADMISSIBILITY OF INFORMATION:

(1) When Musaleheen receive factual information concerning the dispute from any party, they shall disclose the substance of that information to the other party, so that the other party may have an opportunity to present such explanation as it may consider appropriate,

Provided that, when a party gives information to the Musaleheen subject to a specific condition that it be kept confidential, the Musaleheen shall not disclose that information to the other party.

(2) Receipt or perusal, or preparation of records, reports or other documents by the Musaleheen , while serving in that capacity shall be confidential and the Musaleheen shall not be compelled to divulge information regarding those documents nor as to what transpired during the Musalihat Anjuman's sessions.

(3) Parties shall maintain confidentiality in respect of events that transpired during Musalihat Anjuman's sessions and shall not rely on or introduce the said information in any other proceedings as to:

(a) views expressed by a party in the course of the Musalihat Anjuman's sessions/proceedings;
(b) documents obtained during the Musalihat Anjuman's proceedings which were expressly required to be treated as confidential or other notes, drafts or information given by parties or Musaleheen ;

(c) proposals made or views expressed by the Musaleheen ;

(d) admission made by a party in the course of Musalihat Anjuman's proceedings ;

(e) the fact that a party had or had not indicated willingness to accept a proposal;

(4) There shall be no stenographic or audio or video recording of the Musalihat Anjuman's proceedings.

ETHICS TO BE FOLLOWED BY MUSALEHEEN :

The Musaleheen shall:

(1) follow and observe these Rules strictly and with due diligence;

(2) not carry on any activity or conduct which could reasonably be considered as conduct unbecoming of a Musaleheen ;

(3) uphold the integrity and fairness of the Musalihat process;

(4) ensure that the parties involved in the Musalihat and fairly informed and have an adequate understanding of the procedural aspects of the process;

(5) satisfy himself/herself that he/she is qualified to undertake and complete the assignment in a professional manner;

(6) disclose any interest or relationship likely to affect impartiality or which might seek an appearance of partiality or bias;

(7) avoid, while communicating with the parties, any impropriety or appearance of impropriety;

(8) be faithful to the relationship of trust and confidentiality imposed in the office of Musaleheen ;

(9) conduct all proceedings related to the resolutions of a dispute, in accordance with the applicable law;

(10) recognise that Musalihat is based on principles of self-determination by the parties and that Musalihat process relies upon the ability of parties to reach a voluntary, undisclosed agreement;

(11) maintain the reasonable expectations of the parties as to confidentiality;

(12) refrain from promises or guarantees of results

(13) A muslehe shall decline a musalehat if the muslehe cannot conduct it in an impartial manner. Impartiality means freedom from favoritism, bias or prejudice.

(14) A muslehe should neither give nor accept a gift, favor, loan or other item of value that raises a question as to the muslehe's actual or perceived impartiality

(15) A muslehe shall avoid a conflict of interest or the appearance of a conflict of interest during and after a musalehat. A conflict of interest can arise from involvement by a muslehe with the subject matter of the dispute or from any relationship between a muslehe and any musalehat participant, whether past or present, personal or professional, that reasonably raises a question of a muslehe's impartiality.

(17) A muslehe shall disclose, as soon as practicable, all actual and potential conflicts of interest that are reasonably known to the muslehe and could reasonably be seen as raising a question about the muslehe's impartiality. After disclosure, if all parties agree, the muslehe may proceed with the musalehat.

(18) Subsequent to a musalehat, a muslehe shall not establish another relationship with any of the participants in any matter that would raise questions about the integrity of the musalehat. When a muslehe develops personal or professional relationships with parties, other individuals or organizations following a musalehat in which they were involved, the muslehe should consider factors such as time elapsed following the musalehat, the nature of the relationships established, and services offered when determining whether the relationships might create a perceived or actual conflict of interest.

(19) A muslehe shall mediate only when the muslehe has the necessary competence to satisfy the reasonable expectations of the parties.

(20) A muslehe should attend educational programs and related activities to maintain and enhance the muslehe's knowledge and skills related to musalehat.

(21) If a muslehe's ability to conduct a musalehat is impaired by drugs, alcohol, medication or otherwise, the muslehe shall not conduct the musalehat.

PRIVACY:

Musalihat Anjuman sessions and meetings are private; only the concerned parties or their power of attorney holders can attend. Other persons may attend only with the permission of the parties and with the consent of the Musaleheen .

IMMUNITY:

No Musalehe shall be held liable for anything bona fide done or omitted to be done by him during the Musalihat proceedings for civil or criminal action nor shall he/she be summoned by any party to the suit to appear in a Court of law to testify in regard to information received by him/her or action taken by him/her or in respect of drafts or records prepared by him/her or shown to him/her during the Musalihat proceedings.

COMMUNICATION BETWEEN MUSALEHEEN AND THE COURT:

(a) In order to preserve the confidence of parties in the Court and the neutrality of the Musaleheen , there should be no communication between the Musaleheen and the Court, except as stated in clauses (b) and (c) of this Rule.

(b) If any communication between the Musaleheen /Musalihat Anjuman and the Court is necessary, it shall be in writing and copies of the same shall be given to the parties.

(c) Communication between the Musaleheen and the Court shall be limited to communication by the Musalihat Anjuman:

(i) with the Court about the failure of party to attend;

(ii) with the Court with the consent of the parties;

(iii) regarding his assessment that the case is not suited for settlement through Musalihat;

(iv) that the parties have settled the dispute or disputes.

SETTLEMENT AGREEMENT:

(1) Where an agreement is reached between the parties in regard to all the issues in the suit or some of the issues, the same shall be reduced to writing in the form of an agreement, bearing signatures or thumb impressions of the parties as executants, and signatures of the Musaleheen as witnesses,

(2) The agreement of the parties so signed and attested shall be submitted to the Musalihat Anjuman who shall, with a covering letter signed by him, forward the same to the Court in which the suit is pending.

(3) Where no agreement is arrived at between the parties, before the time limit stated in Rule 22 or where, the Musalihat Anjuman is of the view that no settlement is possible, he shall report the same to the Court in writing. if the matter was referred to them by court.