



"PROGRESS THROUGH PEACEFUL SOLUTIONS"

RECOGNISED MEDIATION ORGANISATION | ADRP-SA MEMBER

Approved: Gauteng Mediation Protocol | AFSA-Accredited Mediators

Reg No: 2025/094138/07 | Tax Ref: 9230795271

TSWELOPELE ADR (PTY) LTD

ANNEXURE E

CODE OF PROFESSIONAL CONDUCT FOR MEDIATORS

Version 2 | October 2025

Issued by: Tswelopele Alternative Dispute Resolution (Pty) Ltd

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1. INTRODUCTION

- 1.1. This Code of Conduct establishes the ethical and professional standards applicable to all mediators, practitioners, and associates operating under the auspices of Tswelopele Alternative Dispute Resolution (Pty) Ltd ("Tswelopele ADR").
- 1.2. The objective is to uphold integrity, independence, impartiality, and competence in all dispute resolution processes, consistent with the guidelines issued by ADRP-SA, DiSAC, and NABFAM, and aligned with the principles of the Gauteng Mediation Protocol.



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2. DEFINITIONS

The following terms and acronyms, when used in this Code, shall have the meanings ascribed to them below:

A. Institutional and Regulatory Bodies

Term / Acronym	Definition
2.A.1. Tswelopele ADR	Tswelopele Alternative Dispute Resolution (Pty) Ltd, the Recognised Mediation Organisation (RMO) under whose auspices this Code is issued.
2.A.2. RMO	Recognised Mediation Organisation, as defined in South African legal and accreditation frameworks.
2.A.3. ADRP-SA	Alternative Dispute Resolution Practitioners of South Africa, a newly established national South African regulatory body overseeing standards and accreditation for mediation practitioners.
2.A.4. NABFAM	National Accreditation Board for Family Mediators (or equivalent recognized body).

B. Roles and Status

Term	Definition
2.B.1. Accredited Mediator	A person who has met the training, experience, and verification requirements of Tswelopele ADR and is listed on its official Panel.
2.B.2. Mediator	The impartial third party who assists disputing Parties in reaching a mutually acceptable resolution through a facilitated process.
2.B.3. Panel	The official roster of individuals formally recognized and authorized to conduct mediations under the auspices of Tswelopele ADR.
2.B.4. Party / Parties	All natural or juristic persons directly involved in the dispute and attending the Mediation Process.

C. The Process

Term	Definition
2.C.1. Mediation	A voluntary, confidential, and structured process in which an impartial third party assists disputing Parties in reaching a mutually acceptable resolution by facilitating communication and exploring options.
2.C.2. Mediation Agreement	The formal, written contract signed by the Mediator and all Parties that sets out the scope, fees, confidentiality rules, and the voluntary nature of the process.
2.C.3. Voluntariness	The fundamental principle that Parties may enter, participate in, and withdraw from the Mediation Process at any time without coercion.



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3. SCOPE AND APPLICATION

- 3.1. This Code applies to all mediators and affiliated professionals accredited or supervised by Tswelopele ADR, regardless of the nature or forum of the dispute.
- 3.2. All members are required to affirm their understanding and commitment to this Code in writing as a condition of practice and ongoing accreditation.
- 3.3. The Code governs all pre-mediation contacts, the mediation session(s), and all post-mediation administrative or reporting functions for all forms of ADR administered by Tswelopele ADR.

4. CORE PRINCIPLES

4.1. Independence and Neutrality

Mediators shall act independently of all parties, institutions, and external influences that may compromise their judgment or conduct. Neutrality requires refraining from expressing opinions on the merits of the dispute or advising any party on the likely judicial outcome. Any prior relationships or affiliations must be disclosed immediately upon appointment. If independence or neutrality is compromised, the mediator must recuse themselves unless all parties provide explicit, informed consent in writing.

4.2. Impartiality

Mediators shall treat all parties with equal respect and fairness throughout the process. They must avoid favoring or disadvantaging any party and must not allow personal beliefs or external pressures to influence the facilitation process. Discriminatory or preferential conduct is strictly prohibited.

4.3. Confidentiality

All information disclosed during mediation shall be treated as strictly confidential. No information may be shared outside the process without the prior written consent of all parties, unless:

- 4.3.1. required by law;
- 4.3.2. necessary for purposes of professional supervision (under strict anonymity); or
- 4.3.3. necessary to enforce or report the outcome to the court.

4.4. Voluntariness

Mediation under Tswelopele ADR is fundamentally voluntary. Parties must enter and participate freely, without duress or undue influence. Mediators must clearly and unequivocally explain the absolute right of the parties to withdraw from the process at any time, for any reason, before an agreement is formally signed. The mediator must never pressure or coerce parties into agreement.

4.5. Competence

Mediators shall only accept appointments for which they are qualified by way of training, experience, and knowledge. Ongoing professional development (CPD), as mandated by Tswelopele ADR and relevant national bodies, is mandatory. Mediators must decline appointments outside their expertise or refer the matter appropriately.

4.6. Integrity and Diligence

Mediators shall act with honesty, transparency, and procedural rigor. They must prepare adequately, manage time responsibly, and uphold the dignity of the profession. Misrepresentation of facts, fees, qualifications, or conduct that brings the process into disrepute is prohibited.

5. MEDIATOR APPOINTMENT

- 5.1. Mediators shall only accept appointments through formal channels authorized by Tswelopele ADR.
- 5.2. Prior to acceptance, mediators must disclose any conflicts of interest or limitations in competence in writing to Tswelopele ADR and the parties.
- 5.3. Appointments must be confirmed in writing via a Mediation Agreement, which formally outlines the scope, fees, confidentiality rules, and the voluntary nature of the process.
- 5.4. Tswelopele ADR reserves the right to review or revoke appointments where compliance or party confidence is compromised.

6. MEDIATION PROCESS (PROCEDURE AND CONDUCT)

- 6.1. **Commencement and Preparation:** The mediator is responsible for all preparatory arrangements, including ensuring the Mediation Agreement is signed and that all necessary disclosures are made.
- 6.2. **The Procedural Framework:** Mediators shall conduct the process in accordance with established procedural stages, including, but not limited to:
 - 6.2.1. Opening Statement: Clearly explaining the mediator's facilitative and non-advisory role, the rules of engagement, and the principles of confidentiality and voluntariness.
 - 6.2.2. Parties' Statements: Affording each party an equal and uninterrupted opportunity to present their view of the dispute.
 - 6.2.3. Dialogue and Agenda Setting: Identifying the core issues and establishing a mutually agreed-upon agenda for negotiation.
 - 6.2.4. Option Generation and Evaluation: Facilitating the parties' exploration of creative solutions and assisting them in assessing the workability of potential agreements.
- 6.3. **Respect for Self-Determination:** In line with Principle 4.4, the mediator shall not offer an opinion on how a judicial authority would rule or exert any pressure to accept a specific proposal. The mediator must respect a party's decision to withdraw immediately.
- 6.4. **Conclusion and Reporting:**
 - 6.4.1. If an Agreement is Reached: The mediator shall ensure the terms are recorded accurately, clearly, and formally in a Settlement Agreement. The mediator must encourage the parties to seek independent legal advice before signing.
 - 6.4.2. If No Agreement is Reached: The mediator shall terminate the process fairly and advise the parties on any necessary reporting or next steps, without expressing judgment.
 - 6.4.3. Reporting: The mediator must report the outcome accurately and promptly to Tswelopele ADR and the referring body, as required by applicable protocol.

7. PROFESSIONAL RESPONSIBILITY AND ACCOUNTABILITY

- 7.1. Mediators must not provide legal or professional advice to any party unless qualified and authorized to do so. Where appropriate, the mediator must strongly recommend that the party seek independent legal counsel.
- 7.2. Mediators shall not misrepresent their qualifications or the nature of the process.
- 7.3. Mediators must uphold the reputation of the profession and the integrity of Tswelopele ADR.

8. PROMOTION OF SERVICES

- 8.1. Mediators may promote their services provided all materials are accurate and not misleading.
- 8.2. Claims of guaranteed outcomes or specific success rates that cannot be substantiated are strictly prohibited.
- 8.3. Promotional content must explicitly reflect the voluntary, impartial, and confidential nature of mediation.

9. ENTITLEMENT TO TITLE

- 9.1. Only individuals accredited by and in good standing with Tswelopele ADR may use the title "Accredited Mediator – Tswelopele ADR".
- 9.2. Use of the title is conditional upon continued compliance with this Code and participation in mandatory professional development.
- 9.3. Misuse of the title or misrepresentation of status shall result in disciplinary action.

10. RECORD KEEPING AND REPORTING

- 10.1. Mediators must maintain accurate, secure, and confidential records of sessions, attendance, signed agreements, and all financial transactions related to the mediation.
- 10.2. Outcome data and required procedural reports must be submitted to Tswelopele ADR in accordance with internal policy and applicable protocols. All reporting must preserve the anonymity of confidential discussions.

11. COMPLAINTS AND DISCIPLINARY PROCEDURES

- 11.1. Tswelopele ADR shall maintain a transparent, impartial, and procedurally fair complaints process accessible to all parties and stakeholders.
- 11.2. Complaints shall be investigated by an independent and duly constituted Disciplinary Panel.
- 11.3. **Sanctions may include:**
 - Written warning or formal reprimand
 - Mandatory retraining, supervision, or mentorship
 - Suspension or removal from the Panel
 - Referral to a professional body or regulator

12. BREACHES OF THE CODE

- 12.1. Any material breach of this Code shall immediately trigger disciplinary proceedings.
- 12.2. Serious misconduct, including acts that compromise the integrity of the justice system, shall be reported to relevant oversight bodies (NABFAM, ADRP-SA).

13. AMENDMENTS

- 13.1. Tswelopele ADR reserves the right to amend this Code in line with evolving industry standards, legislative changes, and the requirements of national accreditation bodies.
- 13.2. Accredited members will be notified of amendments and must formally reaffirm compliance as a condition of continued accreditation.



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DECLARATION

By signing this document, I confirm that I have read, understood, and agree to uphold the Code of Professional Conduct of Tswelopele ADR as an affiliated mediator, and to conduct all mediations under the auspices of Tswelopele ADR in strict accordance with its provisions.

Full Name:

Signature:

Designation / Professional Title:

Date:

Place:

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