

[**CIAC RESOLUTION NO. 9-98, December 15, 1998**]

PROMULGATING THE CIAC RULES OF CONCILIATION

WHEREAS, Section 2 of Executive Order No. 1008 creating the Construction Industry Arbitration Commission (CIAC) declares as a policy of the State, the encouragement of the early and expeditious settlement of disputes in the Philippine construction industry;

WHEREAS, Section 16 (a) of the Implementing Rules and Regulations of P.D. 1746 [the law creating the Construction Industry Authority of the Philippines (CIAP)] empowers the CIAC to establish rules of procedures to provide for a fair and expeditious settlement of construction disputes through a nonjudicial process which ensures harmonious and friendly relationships between or among the parties;

WHEREAS, there has been a lot of small construction claims referred to CIAC for conciliation, and in such cases, ad hoc proceedings have been conducted;

WHEREAS, there is a need to establish rules of procedures for conciliation to better respond to the needs of the construction industry;

NOW, THEREFORE, WE, THE UNDERSIGNED CIAC COMMISSIONERS, by virtue of the powers vested in Law, do hereby promulgate the following Rules of Conciliation, to wit:

RULES OF CONCILIATION

SECTION 1. Application of the Rules. — These Rules shall apply to conciliation of construction disputes. The term "construction disputes" shall have the same meaning as this term is defined in Executive Order No. 1008 (1985), otherwise known as the Construction Industry Arbitration Law, and the CIAC Rules on Arbitration of Construction Disputes.

SECTION 2. When Disputes May be Submitted to Conciliation. —

2.1 Construction disputes may be submitted to conciliation by a party in any of the following cases:

- a. When such submission is in pursuance of a conciliation agreement;
- b. When a party requests the conciliation services of CIAC in respect of a dispute which has not been submitted for settlement by a court or arbitrator; or
- c. When both parties request conciliation of a dispute (i) before the filing of a claim for arbitration or litigation, or (ii) during its pendency.

2.2 The term "mediation" when used in a mediation agreement shall have the same meaning as "conciliation"

SECTION 3. Commencement of Conciliation Proceedings. —

3.1 A party requiring conciliation, who shall be known as the Claimant, shall file a Request for Conciliation with the CIAC setting out briefly the purpose of the request, the parties to the dispute and their respective addresses, the substance of the dispute, the amount in dispute, and the relief prayed for, and pay the required administrative and conciliation fees. The claimant shall nominate not less than three (3) CIAC-accredited conciliators.

3.2 A third person may refer a dispute to CIAC for conciliation. The CIAC Secretariat shall invite the claimant to a preliminary meeting and if the claimant agrees to submit the dispute to conciliation, the Secretariat shall request him to comply with Section 3.1 above.

3.3 The Secretariat shall notify the other party to the dispute, who shall be known as the Respondent, of the request for conciliation. The respondent shall be given a period of fifteen (15) days or such longer period as the CIAC may allow for the respondent to inform the Secretariat whether he agrees or declines to participate in the proposed conciliation proceedings. If he agrees to participate therein, he will be requested to submit his answer to the claim and to nominate not less than three (3) CIAC-accredited conciliators.

3.4 Conciliation proceedings commence when the respondent accepts the invitation to conciliate.

SECTION 4. When Conciliation Cannot Proceed. —

4.1 In case of no reply or a negative reply from the respondent within the period given him, CIAC shall notify the claimant that conciliation cannot proceed.

SECTION 5. Conciliation Agreement to be Signed. —

5.1 In case both parties agree to submit their dispute to conciliation, they shall be requested to signed a conciliation agreement.

SECTION 6. Number of Conciliator. —

6.1 Unless the conciliation agreement of the parties provides otherwise, there shall be only one conciliator for the dispute.

SECTION 7. Appointment of Conciliator. —

7.1 CIAC shall appoint a conciliator who is the common nominee of the parties. In the absence of a common nominee, CIAC shall appoint a CIAC-accredited conciliator se name does not appear in the list of nominees of both parties and who, by training and experience, is deemed to be in a good position to act as conciliator for the dispute.

SECTION 8. Submission of Documents to Conciliator. — The parties may agree to