

## **RULES OF MEDIATION AND CONCILIATION\***

### **ARTICLE 1.**

All business disputes suitable for transaction may be submitted by the parties to mediation and conciliation, by a sole conciliator, at the Centre for Commercial Arbitration, according to the present Rules.

### **ARTICLE 2.**

Any party wishing to refer a dispute to mediation and conciliation at the Centre for Commercial Arbitration shall apply to the Centre, filing with it a written request containing the identification of the parties and setting out the subject matter of its case and motives.

### **ARTICLE 3.**

1. The request for mediation and conciliation shall be served to the other party, who will be given a period of ten days to inform the Centre whether it agrees or declines to participate in the attempt to conciliate.

2. In the absence of any reply or in the case of a negative reply the Centre shall inform the party which had requested conciliation that its request is deemed to have been declined.

### **ARTICLE 4.**

1. Upon receipt of an agreement to attempt conciliation, the Chairman of the Board (Arbitration Council) shall appoint a conciliator, from the names in the list of arbitrators of the Centre for Commercial Arbitration.

2. Shall not serve as a conciliator in any dispute any person having, with any of the parties or their representatives, any personal or professional relationship likely to affect independence or impartiality.

3. The appointment of the conciliator shall be notified to the parties, who may challenge him within ten days.

### **ARTICLE 5.**

As soon as the term referred above, under article 4 (3) becomes completed, shall the Secretariat of the Centre promote a meeting with the parties and the conciliator for them to agree on conciliator's fees and on the schedule of proceeding.

### **ARTICLE 6.**

The conciliator shall summon the parties to set forth their cases and motives and to offer any evidence they deem necessary.

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\* Approved on 22 July 1994.

## **ARTICLE 7.**

1. The conciliator shall conduct the conciliation process as he thinks fit, guided by the principles of impartiality, equity and justice.
2. With the agreement of the parties, the conciliator shall fix the place for conciliation and the schedule of proceeding.
3. The conciliator may at any time during the conciliation process request a party to submit to him such additional information as he deems necessary.
4. In conciliation proceedings legal assistance by attorney at law is not mandatory, but parties may nominate someone to represent or to assist them before the conciliator.

## **ARTICLE 8.**

1. The conciliation process is confidential.
2. Whenever one party agrees to participate in the attempt to conciliate, it shall be deemed to commit itself not to rely on, or introduce as evidence in any arbitral, judicial or other proceeding:
  - a) facts revealed, views expressed or suggestions made by another party with respect to a possible settlement of the dispute;
  - b) proposals made by the conciliator or by any party;
  - c) the fact that another party had indicated willingness to accept a proposal for settlement made by anyone in the conciliation process.
3. Unless the parties agree otherwise, the conciliator shall not act in any judicial or arbitral proceeding relating to the dispute which has been the subject of the conciliation process whether as an arbitrator, representative or counsel of a party.
4. The parties mutually undertake not to call the conciliator as a witness in any such proceedings, unless otherwise agreed between them.

## **ARTICLE 9.**

1. The conciliation process shall come to an end upon the parties signing an agreement, in the form demanded by the law, according to each case.
2. The agreement of parties shall remain confidential unless and to the extent that its execution or application require disclosure or agreement of parties otherwise.

**ARTICLE 10.**

1. The conciliation process shall come to an end upon the production by the conciliator of a written statement, with no reasons, that the attempt to conciliate has not been successful.
2. The conciliation process shall also come to an end upon notification to the conciliator by any party, in writing, of an intention no longer to pursue the conciliation process.

**ARTICLE 11.**

1. Parties may agree, in writing, to commit the conciliator the power to determine the performance of the obligations under the contract or to make precise, to complete, to update or even to review the contracts or juridical relationships which are at the origin of the dispute, if the complete settlement of said dispute depends on it.
2. In such case, the agreement of parties thereon shall be deemed to be understood as an arbitration agreement, and the conciliator shall be the sole arbitrator.
3. In his decision, shall the arbitrator act with justice, according to the law he deems applicable, unless parties agree on a decision according equity.
4. The arbitrator shall take his decision within six months, from the date of his appointment or from the agreement of parties according number 1, above.
5. The arbitrator's decision shall not be appealed.

**ARTICLE 12.**

The document signed by the parties containing compromise, the statement issued by the conciliator of having the attempt to conciliate not been successful, the statement issued by any party of an intention no longer to pursue the conciliation process, or the agreement of parties according Article 11 (1), shall be deposited in the Secretary of the Chamber of Commerce where the proceeding took place.

**ARTICLE 13.**

1. The initiating party shall pay, when presenting his request, a flat amount equal to the minimum administrative fees, which shall be taken into account in the first advance on costs, it shall have to pay, in the case the request will proceed.
2. Before the appointment of the conciliator, the Secretariat of the Centre, taking into account the value of the dispute at stake, shall anticipate the amount of costs to be paid by the parties in equal shares.

3. The costs to be considered comprise minimum fees of the conciliator, the foreseeable expenses the attempt to conciliate involves and administrative fees according to the annexed scale.

4. To determine the costs to be considered, the scale for conciliator fees annexed hereto shall be followed. This scale is merely indicative and doesn't take into account, namely, the time incurred by the conciliator and the specific difficulty of each case.

**ARTICLE 14.**

1. Conciliator's fees or the criterion to be used for its fixation shall be agreed between the conciliator and the parties in the meeting referred above, in Article 5.

2. The participation of the conciliator in the said meeting doesn't give him a right to any fees.

**ARTICLE 15.**

1. Whenever, during the course of the proceeding, the Secretariat deems the advances already made short to cover expected costs, it shall invite parties to make new advances, in equal shares.

2. As soon as the conciliation proceeding comes to an end, the Secretariat shall determine the final amount of costs a bill the parties.

3. Fees, both administrative and conciliator's, shall be paid by the parties in equal shares, unless otherwise agreed.

4. Any expense not referred in Article 13 (3) shall be paid by the party that originates it.

**ARTICLE 16.**

The Rules of the Arbitral Tribunal of the Centre for Commercial Arbitration shall apply, dully adapted, in defect of these Rules.

## ADMINISTRATIVE FEES

Currency: €

Up to	12.469,95	124,70		
From	12.469,95 to 24.939,89	124,70 + 1,50%	of amount over	12.469,95
From	24.939,90 to 49.879,79	311,75 + 1,00%	of amount over	24.939,89
From	49.879,79 to 124.699,47	516,15 + 0,50%	of amount over	49.879,79
From	124.699,48 to 249.398,95	935,25 + 0,25%	of amount over	124.699,47
Over	249.398,95	1.246,99		

## INDICATIVE CONCILIATOR'S FEES \*\*

Up to	12.469,95	498,80		
From	12.469,95 to 24.939,89	498,80 + 2,00%	of amount over	12.469,95
From	24.939,90 to 49.879,79	748,20 + 1,50%	of amount over	24.939,89
From	49.879,79 to 124.699,47	1.122,30+ 1,00%	of amount over	49.879,79
From	124.699,48 to 249.398,95	1.870,49 + 0,75%	of amount over	124.699,47
Over	249.398,95	2.805,74 (minimum)		

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\*\* See Art. 13 (4) of Rules of Mediation and Conciliation