

Mediation Procedure Rules

APPLICATION OF THE RULES

Article 1

(1) These Rules apply to mediation of disputes where the parties seeking an amicable settlement of their dispute have agreed that these Rules apply.

(2) The parties may agree to exclude or vary any of these Rules at any time.

(3) Where any of these Rules is in conflict with a provision of any law from which the parties cannot derogate, the legal provision prevails.

COMMENCEMENT OF MEDIATION PROCEEDINGS

Article 2

Mediation proceedings commence when parties to a dispute have agreed to mediate under these rules.

NUMBER OF MEDIATORS

Article 3

61

There shall be one mediator unless the parties agree that there shall be two or three mediators. Where there is more than one mediator, they shall act jointly.

APPOINTMENT OF MEDIATOR(S)

Article 4

Parties shall reach an agreement on the name(s) of their mediator(s).

(2) Parties may enlist the assistance of conflict resolution organization or conflict resolution provider in connection with the appointment of mediators.

In particular:

(a) a party may request the said organization or provider to recommend the names of suitable individuals to act as mediators; or

(b) the parties may agree that the appointment of one or more mediators be made by the organization or provider.

In recommending or appointing individuals to act as mediators, the organization or provider gives prominence to such considerations as are likely to secure the appointment of an independent and impartial mediator.

SUBMISSION OF STATEMENTS TO MEDIATOR(S)

Article 5

(1) The mediator(s) upon being appointed may request each party to submit to the mediator(s) a brief written statement describing the general nature of the dispute and the points at issue. If it is agreed, each party sends a copy of the statement to the other party.

(2) The mediator(s) may request each party to submit to the mediator(s) a further written statement of the party's perspective of the dispute and the facts and grounds in support thereof, supplemented by any documents and other evidence that such party deems appropriate. If it is agreed, the party sends a copy of the statement to the other party.

(3) At any stage of the mediation proceedings the mediator(s) may request a party to submit to the mediator(s) such additional information, as the mediator(s) deem appropriate.

REPRESENTATION AND ASSISTANCE

Article 6

The parties may be represented or assisted by persons of their choice. The names and addresses of such persons are to be communicated in writing to the other party and to the mediator; such communication is to specify whether the appointment is made for purpose of representation or of assistance.

ROLE OF MEDIATOR

Article 7

(1) The mediator assists the parties in an independent and impartial manner in their attempt to reach an amicable settlement of their dispute.

(2) The mediator will be guided by principles of objectivity, fairness and justice, giving consideration to, among other things, the rights and circumstances surrounding the dispute, including any previous interaction between the parties.

(3) The mediator may conduct the mediation proceedings in such a manner as he/she considers appropriate, taking into account the circumstances of the case, the wishes the parties may express, including any request by a party that the mediator hear oral statements, and the need for a speedy settlement of the dispute.

(4) The mediator may, at any stage of the mediation proceedings, make proposals for a settlement of the dispute. Such proposals need not be in writing and need not be accompanied by a statement of the reasons there for.

ADMINISTRATIVE ASSISTANCE

Article 8

In order to facilitate the conduct of the mediation proceedings, the parties, or the mediator with the consent of the parties, may arrange for administrative assistance by the aforesaid organization or provider or any other suitable institution or person.

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COMMUNICATION BETWEEN MEDIATOR AND PARTIES

Article 9

(1) The mediator may invite the parties to meet with him/her or may communicate with them orally or in writing. He/she may meet or communicate with the parties together or with each of them separately.

(2) Unless the parties have agreed upon the place where meetings with the mediator are to be held, such place will be determined by the mediator after consultation with the parties having regard to the circumstances of the mediation proceedings.

DISCLOSURE OF INFORMATION

Article 10

When the mediator receives factual information concerning the dispute from a party he may, upon the consent of the party, disclose the substance of the information to the other party in order that the other party may have the opportunity to present any explanation which he/she considers appropriate.

CO-OPERATION OF PARTIES WITH MEDIATOR

Article 11

The parties will in good faith co-operate with the mediator and, in particular, will endeavor to comply with requests by the mediator to submit written materials, provide evidence and attend meetings.

SUGGESTION BY PARTIES FOR SETTLEMENT OF DISPUTE

Article 12

Each party may, on his/her own initiative or at the invitation of the mediator, submit to the mediator suggestions for the settlement of the dispute.

The Seven Secrets of Effective Conflict Resolution

SETTLEMENT AGREEMENT

Article 13

(1) When it appears to the mediator that there exist elements of a settlement, which would be acceptable to the parties, he/she formulates the terms of a possible settlement and submits them to the parties for their observations. After receiving the observations of the parties, the mediator may reformulate the terms of a possible settlement in the light of such observations.

(2) If the parties reach agreement on a settlement of the dispute, the mediator draws up, or assists the parties in drawing up, the settlement agreement.

(3) The parties by signing the settlement agreement put an end to the dispute

and are bound by the agreement.

CONFIDENTIALITY

Article 14

The mediator and the parties must keep confidential all matters relating to the mediation proceedings. Confidentiality extends also to the settlement agreement, except where its disclosure is necessary for purposes of implementation and enforcement.

TERMINATION OF MEDIATION PROCEEDINGS

Article 15

The mediation proceedings are terminated:

(a) By the signing of the settlement agreement by the parties, on the date of the agreement; or

(b) By a written declaration of the mediator, after consultation with the parties, to the effect that further efforts at mediation are no longer justified, on the date of the declaration; or

(c) By a written declaration of the parties addressed to the mediator to the effect that the mediation proceedings are terminated on the date of the declaration; or

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(d) By a written declaration of a party to the other party and the mediator, to the effect that the mediation proceedings are terminated on the date of the declaration.

RESORT TO ARBITRAL OR JUDICIAL PROCEEDINGS

Article 16

The parties undertake not to initiate, during the mediation proceedings, any arbitral or judicial proceedings in respect of a dispute that is the subject of the mediation proceedings.

COSTS

Article 17

(1) Upon termination of the mediation proceedings, the mediator fixes the costs of the mediation and gives a written notice thereof to the parties.

The term "costs" include only:

(a) The fee of the mediator, which shall be a reasonable amount;

(b) The travel and other expenses of the mediator;

(c) The travel and other expenses of witnesses requested by the mediator with the consent of the parties;

(d) The cost of any assistance provided pursuant to Article 4, paragraph 2(b), and Article 8 of these Rules.

(2) The costs, as defined above, are borne equally by the parties unless the settlement agreement provides for a different apportionment. All other expenses incurred by a party are borne by that party.

DEPOSITS

Article 18

(1) The mediator, upon his/her appointment, may request each party to deposit an equal amount as an advance for the costs referred to in Article 17 paragraph (1) which he/she expects will be incurred.

(2) During the course of the mediation proceedings the mediator may request supplementary deposits, in an equal amount from each party.

(3) If the required deposits under paragraphs (1) and (2) of this Article are not paid in full by both parties within the period specified by the mediator, he/she may suspend the proceedings or may make a written declaration of termination to the parties, effective on the date of that declaration.

(4) Upon termination of the mediation proceedings, the mediator renders an account to the parties of the deposits received and returns any unexpected

balance to the parties.

ROLE OF MEDIATOR IN OTHER PROCEEDINGS

Article 19

The parties and the mediator undertake that the mediator shall not act as an arbitrator or as a representative or counsel of a party in any arbitral or judicial proceedings in respect of a dispute that is the subject of the mediation proceedings. The mediator shall not be presented as a witness or made a party in any such proceedings.

ADMISSIBILITY OF EVIDENCE IN OTHER PROCEEDINGS

Article 20

The parties undertake not to rely on or introduce as evidence in arbitral or judicial proceedings, whether or not such proceedings relate to the dispute that is the subject of the mediation proceedings:

- (a) Views expressed or suggestions made by the other party in respect of a possible settlement of the dispute;
- (b) Admissions made by the other party in the course of the mediation proceedings;
- (c) Proposals made by the mediator;
- (d) The fact that the other party had indicated his/her willingness to accept a proposal for settlement made by the mediator.