

RULES OF MEDIATION PROCEEDINGS OF THE BUSINESS MEDIATION CENTRE

I. Scope of application

1. These Rules apply if the parties have agreed in writing that their dispute that has arisen between them shall be settled by mediation in accordance with the Rules of Mediation Proceedings of the Business Mediation Centre (the "Centre") prior to or after such dispute has appeared.
2. The parties may agree that the mediation proceedings in their case shall in certain respect divert from the provisions of these Rules in respect of the conduct of mediation proceedings.

II. Commencement of mediation proceedings

1. Mediation proceedings are commenced:
 - a) upon joint written request of the parties of dispute to conduct mediation proceedings; or
 - b) if one of the parties has filed its written request to conduct mediation proceedings and the other party has approved in writing its participation in mediation within 14 days after delivery by the Centre's Director of a copy of the request.
2. A joint request of the parties to conduct mediation proceedings should include:
 - a) a description of the parties to mediation proceedings together with their addresses,
 - b) a description of the subject matter of dispute, and in disputes regarding property rights together with an assessment of their value,
 - c) a description of parties standpoints with their justification,
 - d) signatures of the parties,
 - e) list of documents that support the request to conduct mediation proceedings.
3. A joint request of the parties to conduct mediation proceedings can also include:
 - a) the place of mediation proceedings and the language thereof,
 - b) the name of a mediator appointed by the parties,
 - c) the petition that the Centre's Director shall appoint a mediator.
4. The above provisions of items 2 and 3 of this section shall apply in case of a request submitted by one party accordingly.
5. The request submitted by one party should be accompanied by a second copy for the other party.
6. It is admissible that the joint request under this section is composed of two separate requests of the parties, provided they contain the data required under this section.

III. Appointment of the mediator

1. A mediator should be jointly appointed by the parties from the list of mediators maintained by the Centre (the "List of mediators").
2. Should parties have failed to appoint a mediator jointly nor have they applied for the appointment of a mediator by the Centre's Director, the Director shall immediately after commencement of mediation proceedings call upon the parties to appoint the mediator within 14 days upon receipt of the call. The List of mediators shall be attached to the call.
3. Director of the Centre shall promptly appoint a mediator from the List of mediators in case:
 - a) the parties have asked that a mediator be appointed by the Centre's Director; or
 - b) the parties have not appointed a mediator within 14 days upon receipt of Director's call to appoint a mediator.

4. The Centre's Director shall call upon the parties to appoint another mediator in case:
- a) a person designated by the parties cannot accept or has refused to accept the entrusted position; or
 - b) the mediator who has been designated earlier has been challenged by the Centre's Director.
5. If within the premises of preceding item the parties within 7 days upon receipt of a call fail to appoint another mediator the Centre's Director shall promptly appoint a mediator from the List of mediators.

6. Within 7 days upon receipt of mediators' appointment notice or upon learning of circumstances that authorise the challenge each party based upon important reasons may challenge a mediator by addressing the Centre's Director with a written notice of challenge.

7. The Centre's Director shall immediately review the notice of mediator's challenge.

8. Before assuming duties in each case a mediator shall submit to the Centre a written statement of impartiality and independence.

IV. Mediator's tasks and duties

1. In their negotiations aimed at peaceful resolution of dispute a mediator provides the parties with assistance in an impartial and independent manner.

2. A mediator does not adjudicate the dispute but attempts to help the parties reach an agreement.

3. A mediator should attempt to monitor the conduct of mediation proceedings being guided by principles of fairness, impartiality and independence, as well as, taking into account motions of the parties.

4. A mediator may hold meetings with each of the parties in the absence of the other.

5. A mediator may recommend the parties to employ experts or, in a response to parties' request, he may submit his own opinion as to material factual and legal circumstances of a dispute in writing.

V. Place of mediation proceedings

The place of mediation proceedings shall be Warsaw, Poland, unless the parties have agreed in writing otherwise.

VI. Language of mediation proceedings

The language of mediation proceedings shall be Polish unless the parties have agreed in writing otherwise.

VII. Mediation proceedings

1. Mediation proceedings are conducted at mediation sessions.

2. After having it consulted with the parties and the mediator, Centre's Director shall prescribe the date and place of the first mediation session, as well as, he notifies the parties and the mediator.

3. At any stage of proceedings the mediator may request each of the parties to submit additional information. Information submitted by the party is revealed to the other party, provided, the party that released the information has made a reservation that the mediator should keep it confidential.

4. The parties undertake a commitment to co-operate with the mediator in good faith, in particular, in relation to submitting relevant documents, making explanations and taking part in mediation sessions.

VIII. Recording of conduct of mediation proceedings

1. The conduct of mediation proceedings and parties' statements expressed within it are not recorded.

2. A mediator may take notes for the better comprehension of the mediation proceedings and the parties' positions. Those notes should be destroyed by the mediator after completion of mediation proceedings.

3. After completion of mediation proceedings the mediator shall produce for the Centre a short summary report of the conduct and results of closed mediation proceedings.
4. The summary report together with a copy of a request for mediation and eventually with a copy of concluded settlement is stored in the Centre' archives for a period of 4 years starting from the date of completion of mediation proceedings.
5. Documents which are kept in the archives may be released solely to the parties or their authorised representatives.

IX. Confidential character of mediation proceedings

1. The very existence of mediation and its conduct are confidential. Information transferred to mediator by the parties or other persons during mediation proceedings cannot be revealed by him.
2. A mediator should not be called witness in the court proceedings, arbitration or any other proceedings, as to factual circumstances and statements disclosed within mediation proceedings.
3. The parties are obligated to observe confidentiality of mediation proceedings and they cannot make use nor present in capacity of evidence in the court proceedings, arbitration or any other proceedings, any facts or documents which have been disclosed within the mediation proceedings, and particularly:
 - a) standpoints and suggestions expressed by the other party as to the possible outcome of dispute;
 - b) concessions made by the other party during the mediation proceedings;
 - c) proposals or opinions expressed by the mediator;
 - d) a fact that the other party have been expressing intent to accept the proposal of peaceful settlement of dispute, or it has not revealed such intent.
4. The parties may not call the confidential character of mediation proceedings in order to make secret the circumstances, upon which they have been referring to, and which the circumstances can also be ascertained without the mediation proceedings.
5. Third parties can be present at mediation sessions upon permit of the parties and the mediator.

X. Settlement

1. After having reached an agreement as to peaceful resolution of dispute, the parties concluded a settlement.
2. After having ascertained the terms of settlement, the parties can concluded in writing an agreement to submit the existing dispute to resolution by ad hoc arbitration and mandate the mediator to serve as arbitrator. While acting as arbitrator the mediator gives the settlement concluded within the mediation proceedings a form of arbitral award, in accordance with the requirements of the Code of Civil Procedure.

XI. Termination of mediation proceedings

1. Mediation proceedings is terminated by:
 - a) the signing of a written settlement made by the parties;
 - b) submitting by the mediator to the Centre's Director of a written statement on lack of purpose or impossibility to farther conduct the mediation proceedings;
 - c) submitting by a party to the Centre' Director of a written statement on its withdrawal from the mediation proceedings;
 - d) a lapse of time which has been designated for the mediation proceedings in the mediation agreement or in earlier arrangements between the parties, however this time may be extended at any moment by permission of both parties;
 - e) within 7 days after the date at which has lapsed a deadline to pay the fees required under these Rules by the parties;
 - f) submitting by the parties of their dispute to resolution by arbitration.
2. In a case resolved in the mediation proceedings before the Centre, the parties may file an application for re-institution of mediation proceedings, then the same procedure shall be applied as with respect to a new mediation application.

XII. Legal liability of the centre and of the mediator

1. Legal liability of the Centre and the mediator shall be limited to instances of wilful misconduct and gross negligence only.
2. Neither the Centre nor the mediator shall be liable to the parties for their acts connected with the mediation proceedings, except for the instances specified in the preceding item.

XIII. Fees

1. The fees connected with the mediation proceedings conducted by the Centre shall include:

- a) registration fee;
- b) mediation fee;
- c) advance on Centre's expenses.

2. Each party of the mediation proceedings conducted in accordance with these Rules is required to remit a registration fee in the amount specified in Section XIV of the Rules.
3. In case when one party only has filed its request for mediation the Centre's Director by effecting delivery of such request to the other party shall call on that party to remit the registration fee. If the other party has disagreed in writing to participate in mediation or has not remitted the registration fee in due time prescribed by these Rules, then the Centre's Director shall remit back the petitioning party one half of the registration fee this party had paid.
4. The parties carry a joint and several obligation to remit the mediation fee specified in Section XIV of these Rules before opening of the first mediation session; among other items such fee covers mediator's compensation.
5. In case of necessity by the Centre to absorb expenses that exceed the customarily accepted amounts the parties shall be required to pay advance on such expenses in the amount to be specified by the Centre's Director.

XIV. Fee schedule

1. Registration fee amounts to PLN 250.
2. Mediation fee amounts to:

from the value of dispute up to PLN 40,000 PLN 1,000
from the value of dispute from PLN 40,001 up to PLN 1,000 + 3% of amount
over PLN 40,000 PLN 400,000
from the value of dispute over PLN 400,000 PLN 11,300+1% of amount over PLN 400,000, but
than PLN 50,000. never more
3. The parties jointly specify the value of dispute. In cases the parties disagree as to the value of dispute or there are justifiable doubts as to the correctness of its calculation, the value of dispute shall be defined by Centre's Director.
4. The mediation fee is to be remitted to a bank account designated in a payment notice of the Centres' Secretariat.
5. In case more that one mediator has been established in mediation proceedings, an additional 50% mediation fee as specified in item 2 shall be collected.
6. In case the mediator has prepared an opinion described in item 5 of Section IV of these Rules some additional compensation specified by the Centres' Director can be imposed.

XV. Final provisions

1. The provisions of these Rules respectively apply to mediation proceedings:

- a) in which participate more than two parties;
- b) in which the parties or the Centre's Director deem appropriate to designate more than one mediator.

2. The powers of Centre's Director as specified in these Rules are also exercised, upon authorisation granted by the Centre's Director, by Vice Director of the Centre.

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