

# INTERNATIONAL ARBITRATION CHAMBER OF PARIS



## MEDIATION RULES

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## PREAMBLE

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The INTERNATIONAL ARBITRATION CHAMBER OF PARIS (the "Chamber"), founded in 1926, is today one of the oldest French arbitration centres in activity, which contributes to its reputation.

After more than a hundred years of existence, the Chamber has expanded into other sectors of domestic and international trade whilst remaining true to its corporate origins related to commodities.

The Chamber aims to lead by example in promoting, through arbitration and mediation, alternative dispute resolution suitable for the business world, economic exchanges and business life in general.

The Chamber's know-how, drawn from its origins, and the methods that it has adopted enable it to comply with the principles governing arbitration whilst avoiding the excessive rigidity caused by the processualization and juridicization of arbitration that are often criticised and end up harming its image and efficiency.

Accordingly, the Chamber updates its rules regularly to take account of legislative and jurisprudential developments and better respond to the different types of disputes referred to it while preserving the advantages it offers in terms of expertise, celerity, costs and procedural flexibility that constitute its distinctive features.

Indeed, within the many arbitration services available, the Chamber has sought to ensure that arbitration benefits from its expected qualities: a human and pragmatic approach; celerity, by encouraging the recourse to paperless proceedings and to reasonable and tailored deadlines; and legal certainty, by the meticulous selection of arbitrators and the rigour of awards.

With its unique approach, the Chamber intends to preserve the trust that arbitration has gained since its origins.



## **Article 1 : Introductory provisions**

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- 1.1.** The present Mediation Rules (the "Rules") provide for the implementation of procedures enabling parties to reach, on their own, a solution to their dispute with the assistance of a mediator.
- 1.2.** Any mediation under the Rules (the "Mediation") shall be organised exclusively by the Chamber, which is the only body authorised to implement the procedure provided in the Rules.
- 1.3.** The Chairman of the Chamber refrains from exercising any mediation role in the mediations organised by the Chamber.
- 1.4.** The Chamber provides mediators acting under its aegis with all the means at its possession for the accomplishment of their mission.
- 1.5.** The Rules also apply to mediations ordered by state courts.

## **Article 2 : Initiating the Mediation**

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- 2.1.** Mediation may be introduced:
  - a)** at the joint request of all parties to the dispute;
  - b)** at the request of one of the parties where the latter have agreed in writing to have recourse to mediation by the Chamber;
  - c)** at the request of any party who wishes to have the Chamber propose Mediation to the other parties; or
  - d)** by court order.
- 2.2.** The party or parties wishing to initiate Mediation shall submit a written request (the "Request") containing:
  - a)** the full names, descriptions, postal and email addresses or other contact details of each of the parties and, if applicable, any person representing them;
  - b)** a summary of the dispute and an estimate of the amount in dispute;
  - c)** where applicable, a copy of any written agreement between the parties pursuant to which the Request is submitted.
- 2.3.** The Chamber reserves the right to refuse, without having to give reasons, to register any Request submitted to it.

### **Article 3: Processing the Request**

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- 3.1.** Where the Request is not jointly submitted by all the parties to the dispute, the Chamber shall, by any means, notify it to the other parties and invite them to answer thereto within fifteen (15) days from receipt of such notification.
- 3.2.** Where the Mediation is initiated on the basis of article 2.1.c, both the explicit refusal of the mediation proposal and the absence of an answer thereto within the time limit set out in article 3.1 shall result in the closure of the case by the Chamber, which shall inform the parties accordingly.

### **Article 4: Appointment of the mediator**

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- 4.1.** The mediator shall be appointed either (i) by the Chairman of the Chamber, in principle from the list drawn up by the Chamber, unless otherwise agreed by the parties, or (ii) by the judge who ordered the Mediation.
- 4.2.** The Chamber shall confirm the appointment of the mediator upon receipt of the advance on mediation fees in accordance with article 9.1.
- 4.3.** In case of the mediator's death, refusal of mission, incapacity or impediment of any kind, he or she shall be replaced following to the same method of his or her appointment.
- 4.4.** Upon the mediator' proposal and the parties' agreement, several mediators may be appointed as co-mediators.

### **Article 5: Independence, impartiality and availability of the mediator**

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- 5.1.** The mediator must be independent and impartial of the parties and remain so until the end of his or her mission.
- 5.2.** The mediator who accepts his or her appointment shall sign a statement of availability, independence and impartiality, which he or she shall submit to the Chamber and the parties, disclosing, in writing, any fact or circumstance that might be of such a nature as to affect his or her impartiality or independence from the point of the view of the parties. Likewise, if facts or circumstances of this nature arise during the proceedings, the mediator shall inform the parties and the Chamber in writing without delay.
- 5.3.** A party may submit a request to replace the mediator within five (5) days from receipt of any information referred to in article 5.2. In this case, the parties must agree on the appointment of a new mediator within fifteen (15) days from the request for replacement.



## **Article 6 : Conducting the Mediation**

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- 6.1.** The Chamber shall notify the parties and the mediator of the start of the latter's mission where no request to replace the mediator is made in accordance with article 5.3.
- 6.2.** The mediator shall consult the parties so as to agree on how the Mediation is to be conducted as soon as he or she receives the notification referred to in article 6.1.
- 6.3.** The mediator shall assist the parties in reaching a negotiated solution to their dispute, while ensuring that their respective interests are respected and that the mediator's duties of independence and impartiality are respected.
- 6.4.** The Chamber's premises shall be available to the mediator and the parties for the organisation of their meetings, unless the parties and the mediator agree otherwise.

## **Article 7 : Time limit for the Mediation**

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- 7.1.** The time limit for the Mediation shall be for ninety (90) days from the date of notification of the start of the mediator's mission pursuant to article 6.1.
- 7.2.** Upon the mediator's request and the parties' initiative, the time limit for the Mediation may be extended by the Chamber or by the judge who ordered the Mediation.

## **Article 8 : Terminating the Mediation**

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- 8.1.** The mediation ends:
  - a)** at the request of one of the parties, either of whom is free to terminate the Mediation at any time;
  - b)** by the signing of a memorandum of understanding by the parties;
  - c)** when, after a request to replace the mediator, the parties have not agreed on the appointment of a new mediator within the time limit;
  - d)** by the establishment of a statement of default by the mediator (i) if one of the parties has refused to participate in the Mediation or to carry out any diligence requested of it, or (ii) if none of the parties takes action without legitimate reason for at least thirty (30) days;
  - e)** by decision of the mediator, who may, on his or her own initiative and at any time, terminate his or her mission where he or she considers that the

conditions for the Mediation are not met or that the Mediation will not lead to an agreement between the parties;

- f) by the signing of statement of end of mission by the mediator, if the time limit for the Mediation expires without an agreement between the parties.

As soon as one of the above cases occurs, the Chamber shall declare the end of the Mediation and close the case.

- 8.2. The Chamber may also decide to close the case if the parties fail to pay, within the deadline, any advance requested by the Chamber. In this case, the latter shall notify the parties, the mediator and, if applicable, the judge who ordered the Mediation, in writing and without delay, that the case is closed.
- 8.3. Where the Mediation fails, the parties may request the Chamber to implement arbitration proceedings in accordance with its Arbitration Rules, or to resume the arbitration proceedings suspended due to the Mediation. In both cases, in accordance with the provisions of the Chamber's Arbitration Rules, the mediator cannot be appointed as arbitrator, nor intervene in the arbitration in any capacity whatsoever.

## **Article 9 : Fees**

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- 9.1. Where the Mediation is initiated at the joint request of all parties to the dispute or by court order, the Chamber, as soon as the case is referred to it, shall invite the parties to pay the opening fees and the advance on mediation fees within fifteen (15) days.

In the other cases, the Chamber shall invite the party or parties who submitted the Request to pay, within fifteen (15) days:

- a) the opening fee as soon as the case is referred to the Chamber; and
- b) the advance on mediation fees as soon as the other parties accept the mediation proposal.

- 9.2. The mediation fees are calculated on the basis of the fee scales in force on the date of initiation of the Mediation.
- 9.3. The mediation fees only cover the Chamber's administrative fees and the mediator's fees, to the exclusion of any other costs such as travel expenses, meeting room hire, accommodation and any other expenses necessary to the Mediation.
- 9.4. The advance on mediation fees corresponds to a flat rate of ten (10) hours of mediation.
- 9.5. At any time during the Mediation, the Chamber may request the parties to pay, within fifteen (15) days, any additional advance on mediation fees or costs.

- 9.6.** Unless the parties agree otherwise, any advance requested by the Chamber shall be shared equally between them. In the event that one of the parties fails to pay its share, the other party may replace it within additional five (5) days from expiration of the initial fifteen (15) days.
- 9.7.** The time limits set forth in articles 9.1, 9.5 and 9.6 above may be extended by decision of the Chairman of the Chamber.
- 9.8.** The opening fee and mediation fees shall in no event be reimbursable by the Chamber, whatever the duration of the Mediation.
- 9.9.** At the end of the Mediation, the Chamber shall fix the total amount of any costs and, where applicable, reimburse the parties for any excess or invoice them for any outstanding balance in accordance with the Rules.

#### **Article 10 : Confidentiality**

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- 10.1.** The parties, their representatives and the mediator must keep confidential the existence and content of the Mediation and all documents produced therein.
- 10.2.** Article 10.1 may be derogated from to the extent that (i) all parties consent to disclosure such information, or (ii) a party is compelled to disclose it so as to comply with a legal obligation or to protect or exercise a right.
- 10.3.** Throughout the Mediation, in accordance with the principle of confidentiality, exchanges between the parties and between them and the mediator must not be communicated to the Chamber or its secretariat.

#### **Article 11 : Notifications, communications and time limits**

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- 11.1.** Notifications or communications to the Chamber shall be made electronically to the address [procedure@arbitrage.org](mailto:procedure@arbitrage.org).
- 11.2.** Notifications or communications from the Chamber to the parties shall be made to the address of the recipient party or to the latter's representative, as indicates by that party or, as the case may be, by the other party. Any change of address must be notified to the Chamber and to all parties.
- 11.3.** Any notification or communication to the parties shall be deemed to be valid when it is made to the address communicated by the parties in accordance with article 11.2.
- 11.4.** Time limits set by the Rules, or those provided for in the same text, shall start to run on the day following that on which notification or communication is deemed to have been made in accordance with article 11.3.

When, in the country where notification or communication is deemed to have been made on a certain date, the day following that date is a public holiday or

a non-business day, the time limit shall start to run on the first following business day. Public holidays and non-business days are included in the calculation of time limits. If the last day of the time limit is a public holiday or a non-business day in the country where notification or communication is deemed to have been made, the time limit shall expire at the end of the first following business day.

## **Article 12 : Miscellaneous provisions**

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- 12.1.** The Mediation is subject to the Rules in force on the date of initiation of the Mediation.
- 12.2.** The date on which the Request is submitted to the Chamber constitutes, for all purposes, the date of initiation of the Mediation.
- 12.3.** The Rules shall be interpreted by the Chamber.
- 12.4.** Where the parties agree to submit their dispute to the Rules, they shall adopt without reservation all the provisions of the Rules and submit to their strict application, unless they expressly agree otherwise.
- 12.5.** The mediator, the Chamber and its secretariat shall not be liable for any fact, act or omission in connection with a mediation, except in the case of intentional wrongdoing and insofar as such a limitation of liability is not prohibited by the applicable law.

## **APPENDIX: MODEL CLAUSES**

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### **MEDIATION CLAUSE**

Any dispute arising in connection with this contract shall be resolved by mediation under the aegis of the INTERNATIONAL ARBITRATION CHAMBER OF PARIS (6, avenue Pierre 1er de Serbie - 75116 Paris, telephone. 01 42 36 99 65), in accordance with its Mediation Rules, which the parties declare to know and accept.

### **MEDIATION AND ARBITRATION CLAUSE**

Any dispute arising in connection with this contract shall be subject to a prior mediation procedure under the aegis of the INTERNATIONAL ARBITRATION CHAMBER OF PARIS (6, avenue Pierre 1er de Serbie - 75116 Paris, telephone 01 42 36 99 65), in accordance with its Mediation Rules. If mediation fails, the dispute shall be resolved by arbitration under the aegis of the CHAMBER, in accordance with its Arbitration Rules, which the parties declare to know and accept.



**INTERNATIONAL ARBITRATION CHAMBER OF PARIS**

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