



**VANCOUVER
INTERNATIONAL
ARBITRATION
CENTRE**

MEDIATION

Rules of Procedure

(As Amended June 1, 1994)

Vancouver International Arbitration Centre

* formerly British Columbia International Commercial
Arbitration Centre (BCICAC)

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Application for Mediation Services

A party to the dispute may request the assistance of the VANIAC “Centre” to try to settle the dispute using mediation by delivering a completed application form and the required application fee to the Centre.

Upon receipt of both the forms and the application fee, the Centre will contact the other party (or parties) or his or her counsel, and discuss the potential for resolving the dispute through mediation. The Centre will explain the process thoroughly and illustrate the advantages of this “no risk” mechanism to resolve disputes quickly, efficiently and inexpensively.

Joint application may be submitted to the Centre by all parties of the dispute. Parties are encouraged to make joint applications as the mediation conference can be convened more quickly.

Agreement to Mediate

Once all parties have agreed to a mediation conference, they will be asked to become parties to an *Agreement to Mediate* which will help to ensure that the parties understand what is expected of them throughout the mediation conference and thereafter.

Appointment of Mediator

The Centre will appoint a mediator who is independent and impartial in the matter. The mediator shall provide the Centre with a statement verifying that he or she has no interest in the outcome of the case, shall disclose any past involvement with any of the parties or their affiliates, and shall advise whether he or she intends to be professionally involved with such parties in the future.

The parties will be sent a brief biographical sketch of the mediator(s) before confirmation of the appointment.

Time and Place of the Mediation

The Centre will set the date, time and place of the mediation conference after consultation, and will attempt to give each party 14 calendar days’ notice. The parties may choose to hold the mediation at offices of their own, or ask the Centre to book a neutral location.

Communications

Communications between the mediator and the parties prior to the mediation conference are generally discouraged; they should be made through the Centre which shall administer all mediations conducted under these Rules.

Pre-Conference Preparation

Each party should prepare a brief (2 to 3 page) summary of the issues, relevant facts and current status of the dispute. These summaries should be delivered, or sent to the Centre at least 10 calendar days before the first mediation conference in order for the mediator to review them prior to the mediation. The parties should also exchange these summaries between themselves.

Process

At the mediation conference, each party should be prepared to make a brief oral statement explaining his or her perspective. Each party is expected to participate in the structured negotiations with the active assistance of the mediator.

Each party should bring any documents needed in order to effectively negotiate. These documents will also be helpful to the mediator to understand the case but can be kept confidential on request and, in that event, will not be revealed to the other party.

The mediator may caucus privately with each party during the mediation conference if he or she considers that it will assist the process. Any party may request a private caucus with the mediator at any time.

Each party should cooperate in good faith with the mediator. Each party should make every effort to attend a scheduled conference and should cooperate to avoid any unnecessary delays.

Necessary Parties

All parties should be present at the mediation conference. The goal of the mediation is to reach an agreed upon settlement which requires the presence of the individuals with the requisite authority to agree to the settlement terms and conditions.

Evidence

Oral evidence other than that of the parties to the dispute is not encouraged at the mediation conference. The mediator may allow witnesses to give evidence. The expenses of any witness shall be paid by the party producing the witness.

Representation

A party may be represented at a mediation conference by counsel or another representative and if so, represented may request an opportunity to meet privately with his or her representative at any time during the conference.

Resort to Other Proceedings

No party should initiate or continue any arbitral or judicial proceedings in respect of the dispute that is the subject matter of the mediation unless it is necessary for a party to preserve his or her rights.

Record

No transcript shall be kept of the mediation conference.

Confidentiality

The mediator, the parties, their counsel or representative and the Centre shall keep all matters relating to the mediation confidential except where disclosure of a settlement agreement is necessary for purposes of implementation or enforcement of that agreement.

Translation Services

The Centre will arrange translation of the mediation conference at the reasonable request of a party or of the mediator. The cost shall be billed directly to and be borne equally by both parties.

Adjournment

The mediator may adjourn a mediation conference at any time.

Withdrawal

Either party may withdraw from the mediation at any time without providing a reason.

Settlement Agreement

All settlement agreements reached should be reduced to writing and signed by the parties. If the parties are unrepresented, the mediator may suggest that the parties seek independent legal advice before a settlement agreement is signed.

Recommendation

The parties may at any time before mediation is concluded request in writing that the mediator make a non-binding recommendation of settlement. The mediator, at his or her discretion, may provide such a recommendation.

Subsequent Proceedings

The mediator shall not act as a representative or counsel of a party in proceedings in respect of a dispute that is the subject matter of the mediation. The mediator shall

not be subpoenaed to give evidence as a witness in any such proceedings nor shall he or she give such evidence unless ordered to do so by an authorized tribunal.

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

- a) any view expressed, or suggestions made, by the other party in respect of a possible settlement; or
- b) any admissions made by the other party in the course of the mediation; or
- c) any proposals or recommendations made by the mediator unless the parties have, in writing, agreed otherwise.

All communications relating to the mediation are “without prejudice”.

Fees

An initial application fee is payable on receipt of either a single or joint application for mediation services. (*refer to Fee Schedule*). The application fee is non-refundable.

All fees shall be borne equally by the parties attending the mediation unless they agree otherwise in writing. Additional charges include the mediator’s hourly fees and room rental charges, if any.