

**VILNIUS COURT OF COMMERCIAL ARBITRATION
RULES OF MEDIATION**

Effective as of 1 June 2014

Article 1. General Provisions

1. These Rules establish the procedure followed by the Vilnius Court of Commercial Arbitration (hereinafter – the VCCA) in administrating and carrying out mediation procedures.
2. Mediation means a dispute settlement procedure where one or more mediators assist the parties to a dispute to settle it amicably.
3. In the conduct of mediation under these Rules, the provisions of the European Code of Conduct for Mediators shall also be followed.
4. Mediation under these Rules may be applied to settle domestic or international disputes primarily of private nature in respect whereof a settlement may be reached. Mediation may be applied to settle a dispute in whole or in part. Mediation may be carried out irrespective of whether the parties use other dispute resolution methods, unless otherwise stated by agreement of the parties or in effective legal acts.
5. Upon request of the parties, the VCCA may also apply other rules and procedures.

Article 2. Commencement of Mediation

1. The parties or party to a dispute willing to initiate mediation shall submit a written application to the VCCA for the conduct of mediation under these Rules, stating:
 - (1) names and surnames (names of legal entities) of the parties, their representatives and other persons concerned, their ID numbers (enterprise identifiers), addresses, telephone numbers, fax numbers, e-mail addresses and other contact details;
 - (2) description of the dispute facts revealing the nature, substance and value of the dispute, the positions of the parties, their claims, objections, grounds thereof, etc.;
 - (3) opinion regarding the candidate(s) for the mediator(s);
 - (4) information about other methods and procedures applied for resolution of this dispute;
 - (5) other relevant information (desirable time limit for the duration of mediation, the language in which mediation may be conducted, the place of mediation suitable for the party, etc.).
2. The application shall be accompanied by the documents proving the payment of the registration fee and proving the powers of the representatives submitting the application. If the parties have an agreement on the application of mediation or any other alternative dispute resolution procedure in place, such agreement shall also be attached. If the party initiating mediation so wishes, or if the VCCA or the mediator requests, other documents shall also be submitted to support the facts indicated in the application.
3. The administration of the mediation procedure shall commence upon receipt of the above-referred application and payment of the registration fee.
4. In case the application for mediation is submitted only by one party to a dispute, the VCCA shall, not later than within seven days, send a proposal to the other party to the dispute to take part in the mediation. The VCCA may also assist the parties to reconcile their points of view on the application of mediation. In such a case, the party initiating mediation shall deliver the application for

mediation to the VCCA in a number of copies necessary to provide one copy for the VCCA and one copy for the other party to the dispute.

Article 3. Mediators and their Appointment

1. The mediator is usually the person chosen by both parties to the dispute who has the required competence and is impartial.
2. If the parties do not have a preliminary opinion or do not agree regarding the candidate for the mediator who would have the required competence and would be impartial, the mediator shall be selected by the Chairperson of the VCCA. The VCCA shall publish a list of recommended mediators.
3. Upon agreement of the parties, more than one mediator may be appointed.
4. Prior to the appointment of a person as the mediator, he/she shall submit a written consent to conduct the mediation in the specific dispute and also confirm his/her competence and impartiality.
5. Mediators shall be appointed by the Chairperson of the VCCA.
6. The mediator may not act as an arbitrator or judge in the same dispute where he/she has conducted or is conducting mediation, unless both parties to the dispute agree in writing that the arbitrator shall be appointed as the mediator or that the mediator shall carry out the arbitrator's functions and the latter does not object to it. Moreover, the mediator may not be a lawyer or a representative of any of the parties in the same dispute where he/she has conducted or is conducting mediation.

Article 4. Conduct of Mediation

1. The parties may agree on the manner of conducting mediation and its procedure in co-ordination with the mediator. In case such agreement of the parties does not exist, the mediator shall act in a proper manner ensuring that the mediation process is directed towards co-operation, and that it is effective, prompt, lawful, fair, based on the equality of the parties and on other principles of mediation. The mediator shall describe the substance, principles and procedure of mediation at the beginning of the proceedings. The parties shall cooperate mutually and with the mediator during the mediation.
2. The mediator may hold separate meetings with either of the parties in the absence of another party.
3. The parties, their representatives and the mediator shall participate during the mediation. Other persons may also be present during the mediation upon request or consent of the parties. The parties should normally notify the mediator in advance about the desired participation of such persons in the mediation. Having identified that there are more parties in a specific pending dispute, the mediator shall suggest the parties involved to take action regarding their inclusion into the mediation.
4. Any party may withdraw from mediation without indicating the reasons of the withdrawal. The party shall notify the VCCA of its withdrawal in writing. The withdrawal shall not prevent a repeated application of mediation.
5. No record of the course of mediation shall be taken, unless otherwise agreed by the parties and the mediator.
6. The mediator shall notify the parties to the dispute and the VCCA and discontinue the mediation in case an amicable settlement, which can be reached by the parties, is unenforceable or unlawful according to the circumstances of the dispute and the mediator's competence or in case the mediator holds that an amicable settlement, if the mediation is continued, is unlikely.

Article 5. End of Mediation

1. Mediation shall end when:
 - (1) the parties sign a settlement agreement;

- (2) the mediation is terminated by a written application of both or one of the parties;
 - (3) the mediation is terminated by the mediator's written application in the case referred to in Article 4(6) of these Rules, with a prior consultation with the parties;
 - (4) the time assigned for the mediation expires and the parties and the mediator do not extend it;
 - (5) the party, which has been invited to the mediation in the absence of its prior agreement regarding mediation, refuses in writing to participate in the mediation initiated by the other party or when one month expires after the day of dispatch of the proposal to participate in the mediation;
 - (6) the fee fixed by the VCCA has not been paid in due time;
 - (7) the VCCA notifies the parties in writing of the failure to appoint a suitable mediator despite reasonable efforts.
2. The mediator shall inform the VCCA about the end of the mediation and its reasons immediately.
 3. In case a settlement agreement is concluded, the parties shall deliver one copy of the settlement agreement to the VCCA Secretariat.
 4. Upon agreement of the parties and with consent of the mediator, the Chairperson of the VCCA may appoint the mediator as an arbitrator to approve the settlement agreement concluded by the parties by an arbitral award.

Article 6. Confidentiality

1. Unless agreed by the parties to the dispute otherwise, the parties to the dispute, the mediators and the VCCA shall keep all the information of mediation and the information related thereto in confidence, except for the information necessary in order to approve or enforce the settlement agreement concluded during the mediation and the information the non-disclosure whereof would be contrary to the public interest (in particular, when it is necessary to ensure the interests of a child or prevent damage to health or life of a person).
2. The confidential information entrusted to the mediator by one party to the dispute may not be disclosed by the mediator to the other party to the dispute without the consent of the party which has entrusted the information.
3. The data, documents, statements, positions regarding the dispute resolution or the conclusion of a settlement agreement communicated by one of the parties to the dispute to the other party during the mediation as well as any statements, opinions or observations of the mediator shall not constitute the evidence admissible at court, arbitration or any other dispute resolution procedure, unless otherwise agreed by the parties or established by legal acts. The evidence, which has been obtained by the party otherwise than during the mediation and which would be admissible at court in any other case, shall not become inadmissible evidence solely because it has been used or invoked during the mediation.

Article 7. Fees

1. When an application for mediation is submitted, a non-refundable registration fee of EUR 1300 plus VAT shall be paid to the account of the VCCA.
2. The fee for the mediator shall be calculated according to the hourly rate set by the Chairperson of the VCCA, which normally does not exceed EUR 150 plus VAT per hour. The first three work hours of one mediator shall be paid from the registration fee.
3. For the approval of the settlement agreement by an arbitral award as a result of mediation, the parties shall pay EUR 500 to the VCCA on the basis of Article 5(4) of these Rules.
4. The Chairperson of the VCCA may fix the administration fee and the charge for the mediator's fee on the fixed-amount principle.
5. A compensatory fee shall be paid to cover travelling, accommodation and other expenses of mediators and/or support staff in relation to their participation in the mediation as well as to pay for the services of translators/interpreters or experts, for the rent of premises and equipment and for

other services provided to the parties. The amount of the compensatory fee shall be determined by the VCCA Secretariat on the basis of cost of the specific type of transportation, the rent rates for hotels, premises and other documents.

6. The registration fee shall be paid by the party or parties initiating the mediation. If there is no mutual agreement between the parties on the payment procedure of fees, other fees shall be paid by the parties in equal shares. The party may pay the share of the fee not paid by the other party.

7. The fees shall be paid in advance within the time limits specified by the VCCA Secretariat. Payments shall be made to the account of the Permanent Arbitration Institution Vilnius Court of Commercial Arbitration No. LT287044060001217817 at AB SEB Bank, bank code 70440, SWIFT CBVILT 2X.

8. Any variance in calculating the amount of fees shall be corrected by the VCCA Secretariat. Overpayment shall be returned and underpaid amount shall be paid in addition. After the commencement of mediation, the parties shall be responsible to the VCCA for the payment of all fees jointly and severally.

9. Until the day of introduction of the euro in the Republic of Lithuania, the values expressed in euros in these Rules shall be recalculated into litas using the official exchange rate of the litas and the euro as established by the Bank of Lithuania.

Article 8. Limitation of Liability

Mediators, their support staff, the VCCA, the Chairperson of this court and its employees as well as representatives shall not be liable to any persons for any actions or omissions in the mediation process to the extent such limitation of liability is allowed by applicable law.

Article 9. Amendment and Validity of the Rules

1. The VCCA Board may amend or supplement these Rules at any time. Amendments and supplements of the Rules shall have no retroactive force.

2. The rules of mediation in force at the time the VCCA Secretariat receives the relevant application for mediation shall be applied.

3. These Rules shall come into force from 1 June 2014.
