

SCC Mediation Rules

2023

English

Model Mediation Clause

Any dispute, controversy or claim arising out of or in connection with this contract, or the breach, termination, or invalidity thereof, shall be referred to mediation in accordance with the Mediation Rules of the SCC Arbitration Institute, unless one of the parties objects.

Recommended additions:

The seat of arbitration shall be [...].

The language of the arbitration shall be [...].

This contract shall be governed by the substantive law of [...].

Mediation Rules

**Adopted by the Stockholm Chamber of
Commerce and in force 1 January 2023.**

Under any agreement referring to the Rules of the Mediation Institute of Stockholm Chamber of Commerce or the Mediation Rules of the SCC Arbitration Institute or the Arbitration Institute of the Stockholm Chamber of Commerce the parties shall be deemed to have agreed that the following rules, or such amended rules, in force on the date of the commencement of the mediation, shall be applied unless otherwise agreed by the parties.

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Mediation Rules of the SCC Arbitration institute

THE SCC ARBITRATION INSTITUTE

Article 1 About the SCC

The SCC Arbitration Institute (the “SCC”) administers disputes in accordance with the Arbitration Rules of the SCC, the Rules for Expedited Arbitrations of the SCC and other rules and procedures adopted by the Stockholm Chamber of Commerce (together, the “SCC Rules”). The SCC is composed of a board of directors (the “Board”) and a secretariat (the “Secretariat”). Under these Mediation Rules (the “Mediation Rules”), one or more mediators (the “Mediator”) assist the parties in resolving the dispute. Detailed provisions regarding the organisation of the SCC are set out in Appendix I.

THE MEDIATION AGREEMENT

Article 2 The Mediation agreement and its effects

Unless otherwise agreed by the parties an agreement to mediate pursuant to the Mediation Rules does not constitute a bar to court proceedings or a bar to initiate arbitration.

CONFIDENTIALITY

Article 3 Confidentiality

Unless otherwise agreed by the parties, the parties, the SCC and the Mediator shall not disclose the existence of the mediation or its outcome, or use any information learned in the context of the mediation, whether in a subsequent arbitration or otherwise.

The Mediator may not disclose information to a party that the Mediator has obtained in separate discussions with another party unless the disclosing party has authorised such disclosure.

COMMENCEMENT OF THE MEDIATION

Article 4 Request for mediation

(1) Mediation shall be deemed to commence on the date the Secretariat receives the request for mediation.

(2) The request for mediation shall include:

(i) The names, addresses, telephone numbers and e-mail addresses of the parties and their counsel;

(ii) a summary of the dispute; and

(iii) a copy or description of the mediation agreement or clause under which the dispute is to be settled.

(3) Where a request for mediation is submitted by only one party, the Secretariat shall communicate the request to the other party or parties who shall be asked to state whether they agree to participate in the mediation.

(4) If the other party or parties do not agree to participate in the mediation, the Secretariat shall dismiss the request for mediation. If some but not all of the other parties agree to the mediation, the mediation shall proceed between those parties and the requesting party or parties.

Article 5 Registration fee

(1) Upon filing the request for mediation, a registration fee shall be paid. The amount of the registration fee shall be determined in accordance with the schedule of costs (Appendix II) in force on the date when the request for mediation is filed.

(2) If the registration fee is not paid upon filing the request for mediation, the Secretariat shall set a time period within which the party or parties requesting mediation shall pay the registration fee. If the registration fee is not paid within this time period, the Secretariat shall dismiss the request for mediation.

THE MEDIATOR

Article 6 Appointment of Mediators

(1) Unless otherwise agreed by the parties, the case shall be referred to one Mediator, who shall be appointed by the Board. The Board shall take into consideration any proposals made by the parties, the nature and circumstances of the dispute, the applicable law, and the nationality and language of the parties.

(2) If the parties jointly appoint a person to act as Mediator, the SCC shall confirm such appointment.

(3) Unless otherwise agreed by the parties, where more than one Mediator is to be appointed, each party shall appoint an equal number of Mediators and, in case of an odd number, the Board shall appoint one of the Mediators to act as chairperson.

Article 7 Impartiality, independence, and availability

- (1) Every Mediator must be impartial and independent.
- (2) Before being appointed, a prospective Mediator shall disclose any circumstances that may give rise to justifiable doubts as to the prospective Mediator's impartiality or independence.
- (3) Once appointed, the Mediator shall submit to the Secretariat a signed statement of acceptance, availability, impartiality, and independence, disclosing any circumstances that may give rise to the Mediator's impartiality or independence. The Secretariat shall send a copy of the statement of acceptance, availability, impartiality and independence to the parties and any other Mediators.
- (4) A Mediator shall immediately inform the parties and the other Mediators in writing if any circumstances that may give rise to justifiable doubts as to the Mediator's impartiality or independence arise during the course of the mediation. Unless otherwise agreed by the parties, a Mediator may not act as arbitrator in any future arbitrations relating to the subject matter of the dispute.

Article 8 Release from appointment

- (1) Where a Mediator is unable to perform his or her duties or fails to perform his or her functions, or is no longer accepted by the parties, the Board shall release the Mediator from appointment and appoint a new Mediator in accordance with Article 6.
- (2) Before the Board releases a Mediator, the Secretariat may give the parties and the Mediator an opportunity to submit comments.

ADVANCE ON COSTS

Article 9 Advance on costs

- (1) The Board shall determine an amount to be paid by the parties as an advance on costs which shall correspond to the estimated amount of the mediation costs pursuant to Article 14.
- (2) Unless otherwise agreed by the parties, each party shall pay half of the advance on costs.
- (3) At the request of the Mediator, or if otherwise deemed necessary, the Board may, order the parties to pay additional advances during the course of the mediation.
- (4) At any stage of the mediation the Board may draw on the advance on costs to cover the costs of the mediation.

(5) If a party fails to make a required payment, the Secretariat shall give the other party an opportunity to do so within a specified period of time. If the payment is not made within that time, the Board shall dismiss the case in whole or in part. If the case has been referred to the Mediator, the Mediator shall terminate the case in whole or in part.

Article 10 Referral of a dispute to the Mediator

When the Mediator has been appointed and the advance on costs has been paid, the Secretariat shall refer the dispute to the Mediator.

THE PROCEEDINGS

Article 11 Conduct of the mediation by the Mediator

(1) The Mediator shall act diligently to ensure that the mediation is conducted without undue delay.

(2) The Mediator shall consult with the parties to establish a timetable and to decide on any further details regarding the procedure of the mediation.

(3) Each party shall be given an equal and reasonable opportunity to explain its position.

(4) Unless otherwise agreed by the parties, the Mediator shall have the right to consult privately with each party.

TERMINATION OF THE MEDIATION

Article 12 Termination

(1) The mediation shall be terminated:

(i) by a settlement agreement between the parties;

(ii) by a declaration of the Mediator to the parties to the effect that further efforts of mediation are unlikely to lead to the resolution of the dispute; or

(iii) by a written request from a party to the Mediator that the mediation shall be terminated.

(2) Upon the termination of the mediation, the Mediator shall notify the SCC.

Article 13 Confirmation of a settlement agreement in an arbitral award

In case of settlement, the parties may, subject to the consent of the Mediator, agree to appoint the Mediator as an arbitrator and request him or her to confirm the settlement agreement in an arbitral award.

COSTS

Article 14 Costs of the mediation

(1) The costs of the mediation consist of:

- (i) the fee of the Mediator;
- (ii) the administrative fee; and
- (iii) the expenses of the Mediator and the SCC.

(2) The Mediator shall request that the Board finally determines the costs of the mediation. The Board shall finally determine the costs of the mediation in accordance with the schedule of costs (Appendix II) in force on the date of commencement of the mediation pursuant to Article 4.

(3) Unless otherwise agreed by the parties, the costs of the mediation shall be borne by the parties in equal shares.

(4) The parties are jointly and severally liable to the Mediator and to the SCC for the costs of the mediation.

Appendix I: Organisation

Article 1 About the SCC

The SCC is a body providing administrative services in relation to the settlement of disputes. The SCC is part of the Stockholm Chamber of Commerce but is independent in exercising its functions in the administration of disputes. The SCC is composed of the Board and the Secretariat.

Article 2 Function of the SCC

The SCC does not itself decide disputes. The function of the SCC is to:

- (i) administer domestic and international disputes in accordance with the SCC Rules; and
- (ii) provide information concerning arbitration and mediation matters.

Article 3 The Board

The Board shall be composed of one chairperson, a maximum of three vice-chairpersons and a maximum of 12 additional members. The Board shall include both Swedish and non-Swedish nationals.

Article 4 Appointment of the Board

The Board shall be appointed by the board of directors of the Stockholm Chamber of Commerce (the “Board of Directors”). The members of the Board shall be appointed for a period of three years and, unless exceptional circumstances apply, are only eligible for re-appointment in their respective capacities for one further three-year period.

Article 5 Removal of a member of the Board

In exceptional circumstances, the Board of Directors may remove a member of the Board. If a member resigns or is removed during a term of office, the Board of Directors may appoint a new member for the remainder of the term.

Article 6 Function of the Board

The function of the Board is to take the decisions required of the SCC in administering the dispute under the SCC Rules. Such decisions include decisions on the jurisdiction of the SCC, determination of advance on costs, appointment of Mediators, release of Mediators and the fixing of the costs of the mediation.

Article 7 Decisions by the Board

Two members of the Board form a quorum. If a majority is not attained, the chairperson has the casting vote. The chairperson or a vice chairperson may take decisions on behalf of the Board in urgent matters. A committee of the Board may be appointed to take certain decisions on behalf of the Board. The Board may delegate decisions to the Secretariat, including decisions on advance on costs, dismissal for non-payment of the registration fee, release of Mediators, and fixing of the costs of the mediation. Decisions by the Board are final. Dismissal of a case by the Board or the Secretariat in whole or in part has no preclusive effect.

Article 8 The Secretariat

The Secretariat acts under the direction of a secretary general. The Secretariat carries out the functions assigned to it under the SCC Rules. The Secretariat may also take decisions delegated to it by the Board.

Article 9 Procedures

The SCC shall maintain the confidentiality of the mediation and shall deal with the mediation in an impartial, efficient, and expeditious manner.

Appendix II: Schedule of costs

Article 1 Registration fee

(1) The registration fee amounts to EUR 1 500.

(2) The registration fee is non-refundable and constitutes a part of the administrative fee in Article 3 below. The registration fee shall be credited to the advance on costs to be paid by the claimant pursuant to Article 9 of the Mediation Rules.

Article 2 Fees of the Mediator

(1) The Board shall determine the fee of the Mediator, which shall include EUR 4 000 for preparation of the case and EUR 4 000 for each day of mediation hearings. If the Mediator and the parties agree on a mediation plan that requires more extensive preparation or additional time for hearings, the Board may decide on a higher fee based on those corresponding grounds. The Board may thereby decide that an additional advance on costs shall be paid pursuant to Article 9(3).

(2) If the parties appoint more than one Mediator, the Board shall decide on the Mediators' fees.

Article 3 Administrative Fee

(1) The administrative fee shall be determined based on the amount in dispute in accordance with the table below.

(2) The amount in dispute shall be the aggregate value of all claims, counterclaims and set-offs. Where the amount in dispute cannot be ascertained, the Board shall determine the administrative fee having regard to all relevant circumstances.

(3) In exceptional circumstances, the Board may deviate from the amounts set out in the table.

Article 4 Expenses

In addition to the fees of the Mediator and the administrative fee, the Board shall fix an amount to cover any reasonable expenses incurred by the Mediator and the SCC.

Administrative fee

Amount in dispute (EUR)	Administrative fee (EUR)
to 25 000	1 500
from 25 001 to 50 000	1 500
from 50 001 to 100 000	1 500 + 2% of the amount above 50 000
from 100 001 to 500 000	2 500 + 0.5% of the amount above 100 000
from 500 001 to 1 000 000	4 500 + 0.7% of the amount above 500 000
from 1 000 001 to 2 000 000	8 000 + 0.2% of the amount above 1 000 000
from 2 000 001 to 5 000 000	10 000 + 0.1% of the amount above 2 000 000
from 5 000 001 to 10 000 000	13 000 + 0.08% of the amount above 5 000 000
from 10 000 001	17 000 + 0.01% of the amount above 10 000 000
	Maximum 30 000

The costs of the mediation may easily be calculated at www.sccarbitrationinstitute.com

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