



INTERNATIONAL
COMMERCIAL
ARBITRATION
COURT

RULES OF MEDIATION

**OF
THE INTERNATIONAL
COMMERCIAL
ARBITRATION
COURT**

AT THE UKRAINIAN
CHAMBER OF
COMMERCE
AND INDUSTRY

KYIV 2023



**INTERNATIONAL
COMMERCIAL
ARBITRATION
COURT**

AT
THE UKRAINIAN
CHAMBER OF
COMMERCE
AND INDUSTRY

**WORLD STANDARD
OF THE EFFECTIVE
DISPUTE
RESOLUTION**

CONTENTS

RULES OF MEDIATION OF THE INTERNATIONAL COMMERCIAL ARBITRATION COURT AT THE UKRAINIAN CHAMBER OF COMMERCE AND INDUSTRY	4
ARTICLE 1. General Provisions	4
ARTICLE 2. Application of the ICAC Rules of Mediation	4
ARTICLE 3. Disputes Referred to the ICAC for Settlement	5
ARTICLE 4. Principles of Mediation	5
ARTICLE 5. Mediation Agreement and Legal Grounds for Referring Disputes to the ICAC for Settlement	5
ARTICLE 6. Mediators	6
ARTICLE 7. Mediation Fees and Costs	7
ARTICLE 8. Submission and Forwarding of Documents in the Course of the Mediation Proceedings	7
ARTICLE 9. Application for Mediation	8
ARTICLE 10. Joinder in Mediation	9
ARTICLE 11. Appointment of the Mediator	10
ARTICLE 12. Initiation of the Proceedings in the Case	11
ARTICLE 13. General Principles of Mediation Proceedings	11
ARTICLE 14. Place of Mediation	13
ARTICLE 15. Language of Mediation	13
ARTICLE 16. Time Limits of Mediation	14
ARTICLE 17. Procedure of Mediation	14
ARTICLE 18. Confidentiality	15
ARTICLE 19. Agreement Based on the Results of Mediation	16
ARTICLE 20. Termination of Mediation	17
ARTICLE 21. Limitation of Liability	17
ARTICLE 22. Storage of Materials of Mediation Proceedings	18
ARTICLE 23. Publication of Information about Mediation Proceedings	18
ARTICLE 24. The Effect of the ICAC Rules of Mediation	18

APPENDIX 1. SCHEDULE OF MEDIATION FEES AND COSTS_____	19
SECTION I. DEFINITIONS_____	19
SECTION II. REGISTRATION FEE_____	19
SECTION III. MEDIATION FEE_____	20
SECTION IV. DISTRIBUTION OF THE MEDIATION FEE____	21
SECTION V. COVERING ADDITIONAL COSTS OF THE MEDIATION PROCEEDINGS_____	22
SECTION VI. EXPENSES OF THE PARTIES_____	22
APPENDIX 2. FEATURES OF SETTLEMENT OF DISPUTES IN THE ICAC USING THE COMBINED PROCEDURES “ARBITRATION-MEDIATION-ARBITRATION” AND “MEDIATION-ARBITRATION”_____	23
SECTION I. “ARBITRATION-MEDIATION-ARBITRATION”	23
SECTION II. “MEDIATION-ARBITRATION”_____	24
RECOMMENDED MEDIATION CLAUSES (MEDIATION AGREEMENTS)_____	26

Approved by the Decision of the
Presidium of the International
Commercial Arbitration Court
at the Ukrainian Chamber of
Commerce and Industry dated
02 August 2022

RULES OF MEDIATION OF THE INTERNATIONAL COMMERCIAL ARBITRATION COURT AT THE UKRAINIAN CHAMBER OF COMMERCE AND INDUSTRY

ARTICLE 1. | GENERAL PROVISIONS

1. The International Commercial Arbitration Court at the Ukrainian Chamber of Commerce and Industry (hereinafter – the ICAC) is an independent permanent institution performing the functions of an entity that ensures mediation in accordance with the Law of Ukraine “On Mediation” and the Rules of Mediation of the International Commercial Arbitration Court at the Ukrainian Chamber of Commerce and Industry (the ICAC Rules of Mediation).
2. For all matters not expressly provided for in the ICAC Rules of Mediation, the mediator and parties shall act at all times in good faith, respecting the spirit of the ICAC Rules of Mediation, the provisions of the legislation of Ukraine and the Code of Professional Ethics of the ICAC Mediator, as well as in accordance with the purpose of the mediation.

ARTICLE 2. | APPLICATION OF THE ICAC RULES OF MEDIATION

1. Settlement of disputes through mediation in the ICAC is carried out in accordance with these ICAC Rules of Mediation as approved by the ICAC Presidium.
2. The ICAC Rules of Mediation shall apply if the parties before or after the dispute arose have agreed on mediation in accordance with the ICAC Rules of Mediation. If this is the case, the parties are *ipso facto* deemed to have agreed to settle the dispute in the ICAC.
3. If the parties have agreed to refer the dispute to the ICAC for settlement through mediation, they

are *ipso facto* deemed to have agreed on applying the ICAC Rules of Mediation.

4. In any case where the parties have agreed to settle the dispute in accordance with these ICAC Rules of Mediation, but did not specify the institution or inaccurately/incompletely specified the name of the ICAC, it is considered that the parties agreed to submit the dispute to the ICAC for settlement through mediation.
5. The parties to the mediation, upon agreement with the mediator, are free at any time to set their own rules of the mediation, provided that such rules respect the spirit of the ICAC Rules of Mediation and the purpose of the mediation.

ARTICLE 3. | DISPUTES REFERRED TO THE ICAC FOR SETTLEMENT

1. The ICAC shall accept for settlement through mediation disputes that, by virtue of international treaties of Ukraine and the laws of Ukraine, can be settled through mediation.

ARTICLE 4. | PRINCIPLES OF MEDIATION

1. Mediation shall be conducted upon the mutual consent of the parties, taking into account the principles of voluntariness, confidentiality, neutrality, independence and impartiality of the mediator(s), self-determination and equal rights of the mediation parties.
2. The principles of mediation shall also apply to the stage of preparation for mediation.

ARTICLE 5. | MEDIATION AGREEMENT AND LEGAL GROUNDS FOR REFERRING DISPUTES TO THE ICAC FOR SETTLEMENT

1. A mediation agreement is an agreement in writing between the parties to conduct mediation in accordance with the ICAC Rules of Mediation to settle all or certain disputes that have arisen or may arise between them in respect of a defined legal relationship, whether contractual or not. A mediation agreement can be in the form of a mediation clause in a contract or in the form of a separate agreement, or can be a written application(s) of the parties to the ICAC to conduct mediation.

A mediation agreement is considered to be concluded in writing if it is contained in a document signed by the parties, or in exchange of letters, e-mails, provided that the information contained therein is available for further use, communications by telex, telegrams, fax or other means of electronic communication, which provide a record of such agreement.

2. The mediation agreement can be concluded by the parties before or after sending the parties' application for mediation.
3. The issue of availability of legal grounds for accepting a dispute for settlement by the ICAC under these Rules shall be decided by the President of the ICAC when deciding whether to accept the case for proceedings.

ARTICLE 6. | MEDIATORS

1. Settlement of disputes through mediation in the ICAC is being performed by a mediator(s) chosen by the parties and/or appointed according to the procedure provided by the ICAC Rules of Mediation.
2. The ICAC Presidium shall approve the Register of the ICAC Mediators, for a period of five years, which can include nationals of Ukraine, as well as nationals of other states and persons of no nationality, who have basic training in the field of mediation and special training in the field of dispute resolution within the jurisdiction of the ICAC, possess the requisite specialized knowledge and experience and meet high moral and ethical requirements. The Register of the ICAC Mediators shall contain the full name of the mediator, his citizenship, education, academic degree and title, position and place of employment, the number of hours of basic and specialized training in the field of mediation, indicating the name of the entity that provided such training, information on improving the professional level, knowledge of foreign languages, and other data as decided by the ICAC Presidium. If a new Register of the ICAC Mediators has not been approved upon the expiration of five-year term, the previously approved Register of the ICAC Mediators shall remain in force till the approval of a new Register of the ICAC Mediators. The same person may be included in the Register of the ICAC Mediators an unlimited number of times.

ARTICLE 7. | MEDIATION FEES AND COST

1. The ICAC conducts mediation proceedings on a paid basis.
2. The amount of the registration and mediation fees and the manner to cover other mediation expenses are fixed in the Schedule of Mediation Fees and Costs being an integral part of the ICAC Rules of Mediation as an appendix hereto.
3. Unless otherwise agreed between the parties, the registration and mediation fees are paid by the parties in equal shares.
4. The registration fee is paid upon submission of the application for mediation and is non-refundable. The mediation shall start after the parties pay the mediation fee in the manner specified in the Schedule of Mediation Fees and Costs.
5. The violation of the manner and time limits stated for the payment of the mediation fee and compensation of the expenses of the ICAC may result in the termination of the mediation proceedings.

ARTICLE 8. | SUBMISSION AND FORWARDING OF DOCUMENTS IN THE COURSE OF THE MEDIATION PROCEEDINGS

1. All documents relating to the mediation proceedings, unless otherwise expressly provided by these Rules, shall be circulated in electronic form. The parties (their representatives) shall send all documents by e-mail to the other party(s) (their representatives), the ICAC Secretariat and the mediator(s) after his (their) appointment.
2. A written notification sent to a party by electronic means of communication shall be deemed to have been received on the day it is so sent (the time is determined by reference to the recipient's time zone).
3. Documents sent and/or delivered to a party's representative are considered sent and/or delivered to the party itself. The parties are obliged to immediately notify the ICAC Secretariat of a change in their previously specified e-mail addresses and/or replacement of their representatives or a change in their respective e-mail addresses.

ARTICLE 9. | APPLICATION FOR MEDIATION

1. The party(s) initiating mediation shall submit an application for mediation to the ICAC Secretariat.
2. The application for mediation shall contain the following information:
 - 1) the date;
 - 2) the full names of the parties, their identification codes, the place of their location (habitual residence), postal addresses (in the language of the addressee's country or in English), telephone numbers, bank details;
 - 3) information about representatives of the parties, if any, their postal addresses (in the language of the addressee's country or in English), telephone number;
 - 4) e-mail addresses of the parties and their representatives;
 - 5) a brief description of the circumstances and substance of the dispute;
 - 6) the amount of the dispute;
 - 7) desired result of mediation;
 - 8) the language of mediation, unless the parties have agreed on this earlier;
 - 9) proposals as to the form of mediation: face-to-face (in the premises of the ICAC or in another place agreed between the parties), online or in a combined way;
 - 10) proposals as to the candidacy(s) of the mediator(s) from the Register of the ICAC Mediators;
 - 11) a list of documents attached to the application.
3. The application for Mediation's accompanying documents are:
 - 1) a proof of the registration fee payment for mediation;
 - 2) documents certifying a legal status of the party(s);
 - 3) documents confirming factual circumstances of the dispute;
 - 4) a copy of a mediation agreement;
 - 5) other documents, which are considered by the party(s) important for the settlement of the dispute.
4. The application for mediation shall be signed by authorized representatives of the party(s) and shall be accompanied by the documentary evidence of their authorities.

5. The application for mediation and the documents attached thereto shall be in writing in the language of mediation agreed by the parties. In the absence of an agreement between the parties as to the language of mediation, the application and the documents attached thereto shall be in Ukrainian or English. The language of communication of the parties, their location and other circumstances shall be taken into consideration.

ARTICLE 10. | JOINDER IN MEDIATION

1. When a duly completed application for mediation is received from one party, the ICAC sends such an application to the other party(s) and offers to notify the ICAC within 10 working days of their consent to the settlement of the dispute through mediation by submitting a corresponding application, or at their choice to take part in an informational meeting with an authorized person of the ICAC.
2. The informational meeting shall be held by an authorized person of the ICAC. During the information meeting, the principles and rules of mediation shall be explained, as well as the manner of paying the mediation fee and additional mediation costs. In the course of the informational meeting, provided that all the parties to the dispute are present, other issues related to the initiation of mediation proceedings may be resolved.
3. In case the ICAC within the time limit established in the first part of this Article does not receive a response or if the party(s) notifies the ICAC of the refusal to settle the dispute through mediation, then mediation shall not be conducted, whereof the party that submitted the application for mediation shall be immediately notified.
4. In the event that several parties participate in mediation, and the ICAC has sent a proposal to settle the dispute through mediation to several parties, and consent to apply the mediation procedure has not been received from all the parties involved, the mediation shall be conducted between the parties who have agreed to participate therein, unless this prevents further settlement of the dispute through mediation, and provided that the other parties have given their consent in writing to conduct the mediation without one or more parties who refused to participate therein.

5. In cases where the settlement of a dispute with the participation of the parties, who agreed to settle the dispute through mediation, including circumstances provided for in the fourth part of this Article, affects or may affect the rights and legitimate interests of third parties who are not participants in such mediation, the mediation shall not be conducted.

ARTICLE 11. | APPOINTMENT OF THE MEDIATOR

1. Mediation shall be conducted by one mediator, unless the parties have agreed otherwise.
2. The parties, upon their mutual agreement, choose the mediator(s) from the Register of the ICAC Mediators.

In case the parties have agreed to resolve the dispute with the participation of several mediators, such mediators may be jointly appointed by the parties or each party may individually choose a mediator from the Register of the ICAC Mediators and accordingly notify the ICAC of such appointment. The mediators chosen by the parties shall distribute their duties between themselves upon agreement with the parties. Whenever the mediation is conducted by several mediators, the mediation fee shall be subject to increase in accordance with the Schedule of Mediation Fees and Costs.

3. If the parties, within 15 working days from the date of receipt of the application(s) for mediation by the ICAC, have not agreed on the candidacy(s) of the mediator(s), the mediator(s) shall be appointed by the ICAC President. The parties may express their wishes regarding the experience, education and other qualities of the mediator(s).
4. A person accepting the functions of the mediator shall, as soon as possible, fill out and sign an application for accepting and performing the functions of the mediator in accordance with the ICAC Rules of Mediation and the Code of Professional Ethics of the ICAC Mediator, in the form that is approved by the ICAC Presidium.
5. The mediator may not:
 - 1) combine the functions of the mediator with those of another participant of mediation in the same dispute;
 - 2) be a representative of any of the parties in arbitration proceedings in a dispute wherein he was (is) the mediator.

6. A person who is proposed to accept the functions of the mediator is obliged to notify the ICAC of any conflict of interests or other circumstances that may cause reasonable doubts about his independence, impartiality and/or neutrality in the settlement of the specific dispute. If such circumstances become known to the mediator during the mediation, he shall immediately notify the ICAC and the parties accordingly. His further performance of the mediator's functions shall only be possible upon mutual agreement of the parties to the mediation, based on the results of consideration of the relevant notification from the mediator. In the event that the parties have not reached an agreement as to the possibility for such mediator to continue performing his functions, those functions shall be terminated and another mediator shall be re-appointed in accordance with the procedure provided for in this Article.
7. The full name of the mediator(s) chosen by the parties and/or appointed by the ICAC President shall be indicated in the Order of the ICAC President on acceptance the case for proceedings.
8. Each of the parties shall have the right to refuse the services of a mediator(s) by means of submitting a motivated application in writing to the ICAC. The authority of such a mediator shall be terminated by means of the according notification from the ICAC to the other party(s) to the dispute. If such is the case, another mediator(s) shall be elected (appointed) in accordance with the procedure provided for in this Article.

ARTICLE 12. | INITIATION OF THE PROCEEDINGS IN THE CASE

1. The mediation proceedings in the case shall be initiated by the Order of the ICAC President on acceptance of the case for proceedings after the parties to the dispute have submitted to the ICAC a duly executed application(s) for mediation, a document confirming the payment of the registration fee in accordance with the Schedule of Mediation Fees and Costs, as well as an application for the election of a mediator(s) or an application for the appointment of a mediator(s) by the ICAC President.
2. The Order on acceptance of the case for proceedings shall be immediately forwarded by

the ICAC Secretariat to the mediation parties and the mediator(s), together with the ICAC Rules of Mediation and the Code of Professional Ethics of the ICAC Mediator.

3. After the full payment of the mediation fee by the parties, the ICAC Secretariat transfers the case to the mediator(s) for mediation.

ARTICLE 13. | GENERAL PRINCIPLES OF MEDIATION PROCEEDINGS

1. Settlement of a dispute through mediation shall be conducted on the basis of voluntary participation, activity of the mediation parties, disposability, good faith of the parties in the exercise of their rights and obligations. The mediation parties should be treated equally, and each of them should be given equal opportunities to express their position.
2. The mediator shall assist the parties in reaching an understanding and settling the dispute. The mediator is obliged to explain to the parties the principles and procedure of mediation, the role of the mediator in the settlement of the dispute, the consequences of concluding an agreement based on the results of mediation, the procedure for recording the results of mediation, and to perform other duties established by the legislation of Ukraine. The mediator shall not be entitled to resolve the dispute between the mediation parties or to encourage the adoption of a specific decision on the merits of the settlement of the dispute.

During the entire period of the settlement of the dispute through mediation, the mediator shall remain impartial, neutral and independent, shall perform his functions honestly and conscientiously, and shall also have enough time to conduct the mediation.

3. The parties may participate in the settlement of the dispute through mediation both directly or through representatives duly authorized to conclude and sign an agreement based on the results of the mediation.
4. The parties and their representatives shall conscientiously use the rights and opportunities granted to them to settle the dispute, avoid abusing them, and adhere to the established terms and agreements reached regarding the mediation procedure and its results.

5. The mediation parties shall independently determine the range of issues to be discussed, options for settling the dispute, the content of the agreement based on the results of the mediation, terms and methods of implementation thereof, other issues related to the dispute and mediation. The proposals of the parties regarding the settlement of the dispute may not violate the legislation of Ukraine, as well as the rights and legally protected interests of third parties.

Other mediation participants may provide advice and guidance to the mediation parties; however the decision shall be taken solely by the mediation parties.

ARTICLE 14. | PLACE OF MEDIATION

1. Unless the parties agreed otherwise, the place of mediation shall be the ICAC location in Kyiv, Ukraine.
2. The parties upon agreement with the mediator(s) may agree to hold joint and/or individual meetings outside the ICAC location. If such is the case, all additional costs in connection with such meetings shall be borne by the parties.

ARTICLE 15. | LANGUAGE OF MEDIATION

1. The mediation shall be conducted in the language agreed upon between the parties.
2. The language of mediation shall apply to any written statement, motion of a party, orders and other documents of the ICAC.
3. Any statements or documents submitted in a language other than the language of mediation shall be accompanied with a translation into the language of mediation agreed upon between the parties.
4. If the mediation is conducted in a language other than Ukrainian or English, the costs of translation of the ICAC documents and the interpreter attendance in the mediation shall be assigned to all the parties in equal shares, unless they have agreed otherwise. The ICAC may require an advance payment for such expenses.

ARTICLE 16. | TIME LIMITS OF MEDIATION

1. The time limits of mediation shall be determined by the mediation parties, whereof a note shall be included in the Minutes of the organizational meeting.
2. The mediator and the parties shall take every possible measure to complete the mediation proceedings within the time limits they determined.
3. The time limits of mediation, as a rule, shall not exceed 60 days from the date of acceptance of the case for proceedings by the ICAC.

ARTICLE 17. | PROCEDURE OF MEDIATION

1. The mediation proceedings shall start from the date the ICAC President issues an Order on acceptance of the case for proceedings.
2. After receiving the case from the ICAC Secretariat, the mediator, in order to prepare for the mediation, within 5 working days shall inform the ICAC and the parties about the date of the organizational meeting. In the course of the organizational meeting, the mediator shall inform the parties and other mediation participants about their rights and obligations, the rights and obligations of the mediator, the principles and rules of mediation, the possibilities of obtaining advice from relevant specialists (experts), etc. The procedure, time limits, language, time and place of mediation, as well as the need to provide additional documents, shall be recorded by the mediator in the Minutes of the organizational meeting, which shall be signed by the parties and the mediator, including through the exchange of electronic messages. Copies of the Minutes shall be provided (sent) to each party and the ICAC Secretariat.

The Minutes of the organizational meeting signed by the parties and the mediator is *ipso facto* the conclusion of a mediation agreement within the meaning of the Law of Ukraine “On Mediation”.

3. The mediator shall manage the procedure of the mediation and assist the parties in their negotiations to reach a mutually acceptable resolution and final settlement of the dispute and record the results of the mediation.
4. The mediator shall be entitled to hold joint and individual meetings with the parties (*caucus*).

When conducting individual meetings, the mediator shall provide each party with equal time and equal opportunities to present their position. The information obtained by the mediator in the course of an individual meeting with a party may be disclosed to another party only upon consent of the party that provided such information.

5. The organizational meeting, joint and individual meetings can be held face-to-face (in the ICAC premises or in another place agreed by the parties), online or in a combined way.
6. Upon a written agreement between the mediation parties, experts, interpreters and other persons may be involved in the mediation, whose participation in the mediation shall be governed by the provisions of the first part of this Article.
7. Upon completion of the mediation, the mediator shall prepare a Report and within 5 working days shall submit it together with the case to the ICAC Secretariat.

ARTICLE 18. | CONFIDENTIALITY

1. The mediator, the parties and other participants in the mediation are obliged to observe the principle of confidentiality, unless otherwise established by the legislation of Ukraine and/or unless all parties to the mediation have agreed otherwise in writing.

The information that became known in the course of the preparation for mediation, in particular, about the proposal and readiness of the dispute parties to participate in mediation, facts and circumstances that became known in the course of the mediation, the judgments and proposals of the parties regarding the settlement of the dispute, the content of the agreement based on the results of mediation, are confidential.

Without the prior written consent of all the mediation parties involved in the mediation, no such information may be used later on in the course of any court, arbitration or other proceedings or otherwise.

2. Neither of the parties, the mediator, other participants in the mediation, the ICAC or its employees shall have the right to disclose the information that became known to them in the course of the mediation proceedings, without the written consent of the mediation parties.

In case the mediator in the course of individual meetings received from one of the parties information related to the mediation, he may disclose such information to the other party only upon consent of the party that provided such information.

ARTICLE 19. | AGREEMENT BASED ON THE RESULTS OF MEDIATION

1. The Agreement based on the results of mediation shall contain a joint decision of the mediation parties to settle the dispute and is binding on the parties.
2. The Agreement based on the results of mediation is concluded by the mediation parties in writing and shall contain information about:
 - 1) the date and the place of conclusion of the Agreement;
 - 2) the full names of the parties, their locations (places of residence), postal addresses (in the language of the addressee's country or in English), telephone numbers, e-mail addresses, bank details;
 - 3) the representatives of the parties (if any), their postal addresses (in the language of the addressee's country or in English), telephone numbers, e-mail addresses;
 - 4) the mediator(s), the entity that ensures mediation, and the rules of mediation;
 - 5) the obligations agreed by the mediation parties, the methods and terms of their fulfilment, as well as the consequences of their non-fulfilment or improper fulfilment;
 - 6) other conditions determined by the mediation parties and/or the legislation of Ukraine.
3. The Agreement based on the results of mediation shall not contain provisions violating the rights and interests of other persons, public interests.
4. To the request of the parties, the Agreement based on the results of mediation may be certified by the mediator(s) and the ICAC President to confirm the compliance of the conducted mediation with the ICAC Rules of Mediation and the legislation of Ukraine.
5. The parties shall provide the mediator with a copy of the Agreement based on the results of mediation, which shall be attached to the mediator's Report and returned to the ICAC Secretariat together with the case.

ARTICLE 20. | TERMINATION OF MEDIATION

1. The legal grounds for termination of the mediation shall be:
 - 1) conclusion of an Agreement between the parties based on the results of mediation;
 - 2) a written statement from a party(s) refusing to participate in the mediation, in case if the mediation is impossible without such party(s);
 - 3) violation by the parties of the manner of payment of the mediation fees and expenses;
 - 4) a substantiated written statement from the mediator(s) refusing to act as a mediator, in case the parties have not reached an Agreement regarding the candidacy(s) of another mediator(s);
 - 5) a written statement from the mediator stating that, in his opinion, settlement of the dispute through mediation is impossible or has become unnecessary for any reasons, in particular, due to the systematic non-appearance of a party(s) at joint and/or individual meetings without prior written notification of the mediator and/or other significant violation of the mediation rules agreed between the parties and the mediator;
 - 6) other legal grounds for termination of mediation established by the legislation of Ukraine.
2. The date of termination of the mediation proceedings shall be the date of the mediator's Report in the case of concluding an Agreement based on the results of mediation or the date of the Order of the ICAC President to terminate the mediation proceedings on other legal grounds for the termination of the mediation.
3. The Order on termination of the mediation proceedings shall be sent to the parties by the ICAC Secretariat.
4. The functions of the mediator shall be terminated simultaneously with the termination of the mediation proceedings.

ARTICLE 21. | LIMITATION OF LIABILITY

1. The mediator shall bear civil, administrative or criminal liability in accordance with the Law of Ukraine "On Mediation".

2. The mediators, the ICAC and its employees shall not be liable to the parties or any other persons for any act or omission in connection with the mediation, which was conducted in accordance with the ICAC Rules of Mediation and the legislation of Ukraine.
3. The mediator(s) shall not be liable for the content of the parties' agreements regarding the settlement of the dispute, as well as for the consequences that may arise in connection with the implementation or non-implementation of such agreements.
4. The mediators, the ICAC and its employees shall not be obliged to make any statements in connection with any mediation proceeding that is or was conducted in accordance with the ICAC Rules of Mediation.
5. Complaints about the mediator's professional activity shall be reviewed by the ICAC Presidium, which shall take appropriate response measures, including exclusion from the Register of the ICAC Mediators.

ARTICLE 22. | STORAGE OF MATERIALS OF MEDIATION PROCEEDINGS

1. The cases shall be stored in the ICAC for 5 years from the date of termination of mediation proceedings, and after the said time limit shall be destroyed physically and/or using electronic devices in accordance with the procedure established by law.

ARTICLE 23. | PUBLICATION OF INFORMATION ABOUT MEDIATION PROCEEDINGS

1. The ICAC shall be entitled to collect and distribute depersonalized information about the number, duration and effectiveness of the mediations conducted.

ARTICLE 24. | THE EFFECT OF THE ICAC RULES OF MEDIATION

1. These Rules shall enter into force on 01 January 2023 and shall apply to cases accepted for proceedings by the ICAC from the said date.

SCHEDULE OF MEDIATION FEES AND COSTS

SECTION I. DEFINITIONS

1. “Registration fee” shall mean a fee to be paid by the party(s) when an application(s) for mediation is filed with the ICAC to cover the costs to be incurred in connection with preparation to the mediation proceedings.
2. “Mediation fee” shall mean a fee to be paid by the party(s) for each accepted mediation proceedings in the ICAC to cover the costs to be incurred in connection with such proceedings, including the remuneration payable to the mediator(s) and an administration fee payable to cover the costs of conduct of the mediation proceedings.
3. “Additional mediation costs” shall mean special-purpose expenses arising in connection with the mediation (expenses for translations, travelling expenses of the mediator(s), and so on).
4. “Expenses of the parties” shall mean expenses incurred by each of the parties separately in connection with participation in the mediation (travelling expenses of the parties’ representatives, lawyers’ fees, and so on).

SECTION II. REGISTRATION FEE

1. The registration fee to be paid by the applicant(s) when an application for mediation is filed with the ICAC shall amount to 300 US dollars.
2. The residents shall pay the registration fee in Hryvnia (UAH) at the exchange rate of the National Bank of Ukraine as of the day of payment by means of a bank transfer to the account of the Ukrainian Chamber of Commerce and Industry IBAN: UA863223130000000260020128332 with JSC Ukreximbank, Kyiv, MFO code 322313, identification code 00016934.

The non-residents shall pay the registration fee in a freely convertible currency to the foreign currency account of the Ukrainian Chamber of Commerce and Industry IBAN: UA863223130000000260020128332 with the same bank.

The Ukrainian Chamber of Commerce and Industry shall be indicated as a beneficiary.

As the purpose of the payment, “Registration fee for conducting mediation” shall be indicated.

3. The registration fee is non-refundable.

SECTION III. MEDIATION FEE

1. In the Order on acceptance the case for proceedings, the ICAC President determines the amount of the advance payment to be paid by the parties and later on to be included in the total amount of the mediation fee.

2. The amount of the mediation fee shall be determined at the rate of 100 US dollars per 1 hour of mediation.

The actual mediation time shall be the time directly spent on the preparation and conduct of the mediation, including studying the case materials, holding organizational meetings, joint and individual meetings with the parties and other participants in the mediation proceedings.

In order to start the mediation proceedings, the parties shall pay an advance payment to cover 8 hours of mediation. In order to continue the mediation after the end of those 8 hours, the parties shall pay another advance payment to cover at least 8 hours more of mediation within the time limits to be determined by the mediator(s). The mediation shall be suspended until such payment is effected.

The mediator(s) jointly with the parties shall keep the record of the actual time spent. Upon the termination of the mediation, the remaining funds for the unused paid hours of mediation shall be returned to the parties, wherefore a relevant statement shall be included in the Order on termination of the mediation.

3. The amount of the mediation fee as established in paragraph 1 of this section shall be payable in case a sole mediator conducts the mediation. In the event the mediation is conducted by two mediators (co-mediators), the amount of the mediation fee shall be increased by 50%.

4. If more than two parties participate in the mediation, the amount of the mediation fee shall be increased by 10% per each additional party, however not more than by 70%.
5. The residents shall pay the mediation fee in Hryvnia (UAH) at the exchange rate of the National Bank of Ukraine as of the day of payment by means of a bank transfer to the account of the Ukrainian Chamber of Commerce and Industry IBAN: UA863223130000000260020128332 with JSC Ukreximbank, Kyiv, MFO code 322313, identification code 00016934.

The non-residents shall pay the mediation fee in a freely convertible currency to the foreign currency account of the Ukrainian Chamber of Commerce and Industry IBAN: UA863223130000000260020128332 with the same bank.

The Ukrainian Chamber of Commerce and Industry shall be indicated as a beneficiary. As the purpose of the payment, "Mediation fee for mediation proceedings No. ____" shall be indicated.

6. The mediation fee and any and all other amounts payable to the ICAC shall be deemed paid as of the day they are credited to the bank account of the Ukrainian Chamber of Commerce and Industry.

The expenses in connection with the bank transfer of the amounts of the mediation fees and costs payable to the ICAC shall be borne by the party that is effecting the respective payment.

7. The mediation fee shall be paid within the time limits as determined in the Order of the ICAC President and/or by the mediator(s).

The mediation proceedings shall be suspended until the amount of the mediation fee is credited to the bank account of the Ukrainian Chamber of Commerce and Industry.

SECTION IV. DISTRIBUTION OF THE MEDIATION FEE

1. Unless the parties agreed otherwise, the registration and mediation fees shall be paid by the parties in equal shares.

SECTION V. COVERING ADDITIONAL COSTS OF THE MEDIATION PROCEEDINGS

1. The ICAC may require the parties to deposit an advance for the additional costs in connection with the mediation proceedings.
2. The ICAC may make the implementation of appropriate actions to settle the dispute through mediation subject to payment by the parties of an advance for the additional costs within the established time limits.
3. If parties (a party) appoint a mediator residing permanently out of the place of mediation at the ICAC, those (that) parties (party) shall be required to deposit an advance for the costs associated with his participation in the mediation (travelling expenses, accommodation, meals, obtaining visa, and so on).
4. If the mediation is conducted in a language other than Ukrainian or English, the costs of translation of the ICAC documents and the interpreter's participation in the mediation procedure shall be charged to the parties in equal amounts.

The ICAC may require the parties to deposit an advance for such costs.

5. If the parties have agreed to hold joint or individual meetings outside the location of the ICAC, any and all additional costs related to holding such meetings, including travel and accommodation of the mediator(s), shall be charged to the parties in equal amounts, unless the parties have agreed otherwise.

The ICAC may require the parties to deposit an advance for such costs.

SECTION VI. EXPENSES OF THE PARTIES

1. Each party shall bear its own expenses specified in paragraph 4 of section I.

Appendix No. 2
to the Rules of Mediation
of the International Commercial
Arbitration Court at the Ukrainian
Chamber of Commerce and
Industry

FEATURES OF SETTLEMENT OF DISPUTES IN THE ICAC USING THE COMBINED PROCEDURES “ARBITRATION- MEDIATION-ARBITRATION” AND “MEDIATION-ARBITRATION”

Combined dispute settlement procedures in the ICAC are applied in accordance with the provisions of the Laws of Ukraine “On International Commercial Arbitration” and “On Mediation”, the ICAC Rules, the ICAC Rules of Mediation, taking into account these Features.

SECTION I. “ARBITRATION-MEDIATION-ARBITRATION”

1. In the course of the arbitration proceedings and before the Arbitral Tribunal reaches the stage of rendering the Arbitral Award in accordance with the first part of Article 60 of the ICAC Rules, the parties may submit a petition to the Secretary General of the ICAC for leaving the case without actions (before the Arbitral Tribunal has been composed) or a petition to the Arbitral Tribunal for suspending the arbitration proceedings in order to settle the dispute through mediation. In such petition, the parties shall specify approximate time limits of the mediation, as well as the full name of the mediator from the Register of the ICAC Mediators. If such is the case, the Secretary General shall leave the case without actions or the arbitral proceedings of the case shall be suspended by the Ruling of the Arbitral Tribunal. The mediation procedure shall be conducted according to the ICAC Rules of Mediation. When submitting an application for mediation to the ICAC, the registration fee for mediation shall not be payable.
2. In case the parties only partially settled or did not settle the dispute through mediation, the arbitration proceedings of the case shall be renewed.
3. If the dispute has been settled through mediation, in the event that the parties submit a petition for an Arbitral Award on the agreed terms, the arbitration proceedings of the case shall be renewed, and such petition may be considered without calling the

parties, unless the Arbitral Tribunal in the light of the circumstances of the case deems it expedient to conduct an oral hearing.

In other cases, if the dispute has been settled through mediation, the parties shall apply for termination of the arbitration proceedings upon agreement between the parties, and in connection therewith the arbitration proceedings shall be terminated by issuing a respective Order.

4. The same person may not act as both the mediator and the arbitrator in resolving a dispute between the same parties. A person acting as the arbitrator shall not have access to the materials of the ICAC mediation proceedings.

SECTION II. “MEDIATION-ARBITRATION”

1. The legal grounds for the application of the “Mediation-Arbitration” procedure shall be an agreement between the parties to refer their disputes to the ICAC for resolution using the combined “Mediation-Arbitration” procedure.

Such a procedure shall be implemented in stages:

- 1) an Order of the ICAC President shall initiate the mediation proceedings, which shall be conducted in accordance with the ICAC Rules of Mediation;
 - 2) after the termination of such mediation proceedings, another Order of the ICAC President shall initiate the arbitration proceedings, which shall be conducted in accordance with the ICAC Rules.
2. The parties who settled the dispute through mediation and agreed to submit the Agreement based on the results of the mediation to the ICAC for the issuance of an Arbitral Award on the agreed terms shall submit to the ICAC a petition for the issuance of the Arbitral Award on the agreed terms, which shall meet the requirements of paragraph 3 of this Section and parts from the second through fourth of Article 14 of the ICAC Rules. Such petition shall be considered under the expedited procedure in accordance with the third part and parts from the fifth to seventh of Article 45 of the ICAC Rules, without filing a Statement of Claim.
 3. Such petition for the Arbitral Award on the agreed terms shall contain:
 - 1) the date;
 - 2) the full names of the parties, the places of their

location (habitual residence), postal addresses (in the language of the addressee's country or in English), telephone numbers, e-mail addresses of the parties, bank details of the parties;

3) information about representatives of the parties, if any, their postal addresses (in the language of the addressee's country or in English), telephone numbers, e-mail addresses;

4) the claimed amount of the dispute that has been settled by concluding an Agreement based on the results of the mediation calculated in accordance with the terms and conditions of Article 15 of the ICAC Rules;

5) a substantiation of the jurisdiction of the ICAC;

6) proposals as to the applicable rules of law and the language of the arbitral proceedings, unless the parties determined them in the arbitration agreement;

7) a short statement of the factual circumstances of the dispute with the relevant evidences specified;

8) proposals as to the distribution of the arbitration fees and costs between the parties;

9) a list of documents attached to the petition.

The original of the Agreement based on the results of the mediation shall be attached to the petition.

4. In the case provided for in paragraph 2 of this Section, the same person may perform the functions of the mediator and the arbitrator upon a written agreement between the parties. In such a case, his appointment as the mediator shall occur in accordance with the procedure established by the ICAC Rules of Mediation, and the composition of the Arbitral Tribunal shall be composed in accordance with the procedure provided for by the ICAC Rules, taking into account the features specified in Section 2 of this Appendix.
5. If the parties failed to finally settle the dispute through mediation, such dispute is subject to final resolution in accordance with the procedure provided for by the ICAC Rules.
6. In the case provided for in paragraph 5 of this Section, the same person may not perform the functions of both the mediator and the arbitrator in resolving the dispute between the same parties. A person acting as an arbitrator shall not have access to the materials of the ICAC mediation proceedings.

RECOMMENDED MEDIATION CLAUSES (MEDIATION AGREEMENTS)

1. MEDIATION CLAUSE

«Any dispute, controversy or claim arising out of or relating to this contract, including the conclusion, interpretation, execution, breach, termination or invalidity thereof, shall be settled by mediation in the International Commercial Arbitration Court at the Ukrainian Chamber of Commerce and Industry in accordance with its Rules of Mediation».

The following provisions may be used:

«Mediation shall be conducted: _____».
(by a mediator or «__» mediators)

«The place of mediation shall be _____».
(country, city)

«The language of mediation shall be _____».
(Ukrainian, English or other)

2. «TWO-LEVEL» CLAUSE

«Any dispute, controversy or claim arising out of or relating to this contract, including the conclusion, interpretation, execution, breach, termination or invalidity thereof, shall be settled by mediation in the International Commercial Arbitration Court at the Ukrainian Chamber of Commerce and Industry in accordance with its Rules of Mediation. If one of the parties objects to the mediation or if the mediation was terminated without settlement of the dispute, the dispute shall be finally settled by arbitration in the International Commercial Arbitration Court at the Ukrainian Chamber of Commerce and Industry in accordance with its Rules».

The following provisions may be used:

«Mediation shall be conducted: _____».
(by a mediator or «__» mediators)

«The place of mediation/arbitration shall be _____».
(country, city)

«The language of mediation shall be _____».
(Ukrainian, English or other)

«The number of arbitrators shall be _____».
(one or three)

«This contract shall be regulated by the substantive law of _____».
(country)

3. COMBINED CLAUSE FOR THE «MED-ARB» PROCEDURE

«Any dispute, controversy or claim arising out of or relating to this contract, including the conclusion, interpretation, execution, breach, termination or invalidity thereof, shall be settled by means of mediation in the International Commercial Arbitration Court at the Ukrainian Chamber of Commerce and Industry in accordance with its Rules of Mediation.

If, by means of mediation during [60] days, the parties failed to finally settle a dispute, controversy or claim, then such a dispute, controversy or claim shall be finally settled by means of arbitration in the International Commercial Arbitration Court at the Ukrainian Chamber of Commerce and Industry in accordance with its Rules.

If the parties settled a dispute, controversy or claim by means of mediation, the agreement based on the results of the mediation shall be submitted to the International Commercial Arbitration Court at the Chamber of Commerce and Industry of Ukraine for rendering an award on the agreed terms in accordance with its Rules».

The following provisions may be used:

«Mediation shall be conducted: _____».
(by a mediator or «_» mediators)

«The place of mediation/arbitration shall be _____».
(country, city)

«The language of mediation shall be _____».
(Ukrainian, English or other)

«The number of arbitrators shall be _____».
(one or three)

«This contract shall be regulated by the substantive law of _____».
(country)

International Commercial Arbitration Court
at the Ukrainian Chamber of Commerce and Industry

www.icac.org.ua

33, Velyka Zhytomyrska Street,
01601, Kyiv, Ukraine
+380 44 586 51 87,
+380 67 239 56 77,
+380 50 352 36 96,
e-mail: icac@icac.org.ua