



At its meeting of 16 August 2018, the Board of the International Arbitration Court of the Czech Commodity Exchange approved the following

Mediation Rules

Article 1 - Introduction

1. The International Arbitration Court of the Czech Commodity Exchange (the “**Arbitration Court**”) is a permanent independent arbitration court which hears and decides property disputes through independent arbitrators according to the rules of arbitration, and an independent body for settlement of disputes besides arbitration (alternative dispute resolution).
2. The Rules of the Arbitration Court on Out-of-Court Settlement of Disputes by Mediation (these “**Mediation Rules**”) lay down a flexible procedure aimed at achieving amicable settlement of a dispute between two or more parties (the “**Parties**”), using one or more impartial third parties (the “**Mediator**”).
3. The Arbitration Court informs the Parties of the benefits of mediation, accepts requests and calls to initiate mediation and forwards them to other parties involved in the dispute, appoints the mediator, keeps records of acts performed within the mediation, assists with the organisation of mediation meetings, decides on the language and place of mediation if the Parties do not agree on them (hereinafter the “**Management of Mediation**”).
4. The Arbitration Court is not responsible for the content of a mediated settlement agreement.

Article 2 - Application of the Mediation Rules

1. All the Parties may agree to change any provision of these Mediation Rules; however, the Arbitration Court may decide not to undertake the Management of Mediation if it concludes, at its own discretion, that the change is not in accordance with the sense and purpose of these Mediation Rules. After the appointment of the Mediator, any agreement to change the provisions of these Mediation Rules is subject to the Mediator’s consent.
2. Unless stated otherwise, the abbreviations used in other internal regulations of the Arbitration Court shall apply.
3. Unless stated otherwise, the Secretary of the Arbitration Court may act in respect of these Mediation Rules. Within the Management of Mediation under these Mediation Rules, the Arbitration Court may take any steps that it considers necessary with a view to effective conduct of the mediation and maintaining the sense of these Mediation Rules.

Article 3 - Mediation and Other ADR Procedures

1. Mediation means negotiations between the Parties with the assistance of an impartial and



independent Mediator who assists the Parties in finding a solution to their dispute using techniques facilitating communication or an active search for specific solutions, including presentation of proposals for possible resolution of the dispute.

2. Mediation will be conducted under these Mediation Rules unless the Parties agree on a different amicable solution to their dispute, either before the appointment of the Mediator or, with the Mediator's consent, after his/her appointment. If the Parties opt for a different process, the provisions of these Mediation Rules shall apply *mutatis mutandis*.

Article 4 - Request to Initiate Mediation

If all the Parties wish to initiate mediation, they shall send to the Arbitration Court a joint written Request to Initiate Mediation ("**Request**") and a document proving the payment of the fee for acceptance of a request, in the amount set in the Tariff attached to these Mediation Rules. The Request shall be sent in a number of copies exceeding by one the number of the Parties and shall comprise:

- a) the names, addresses, telephone numbers, e-mail addresses and any other contact details of all the Parties and all persons representing the Parties;
- b) a description of the dispute, including the specification of its value, where possible;
- c) any and all agreements of the Parties relating to the conduct of the mediation or determining any method of amicable settlement of their dispute other than mediation; any and all agreements concerning time limits for the mediation, language or languages of mediation, the place of personal meetings, if any; and
- d) a nomination of the Mediator if all of the Parties have agreed on the nomination.

Article 5 - Call to Initiate Mediation

1. If not all the Parties agree to initiate mediation, any of the Parties may ask the Arbitration Court to arrange for mediation. In such a case, any of the Parties (hereinafter the "**Calling Party**") who wish to initiate mediation in accordance with the Mediation Rules shall send to the Arbitration Court a Call to Initiate Mediation ("**Call**") in a number of copies exceeding by one the number of the Parties and a document proving the payment of the fee for processing a call, in the amount set in the Tariff attached to these Mediation Rules. The Call shall comprise:

- a) the names, addresses, telephone numbers, e-mail addresses and any other contact details of the Calling Party and all persons representing that Party;
- b) the names, addresses, telephone numbers, e-mail addresses and any other contact details of the other Parties and all persons representing them, if this information is known to the Calling Party;
- c) a description of the dispute, including the specification of its value, where possible;
- d) any proposals for the manner of conducting the mediation or using any method of amicable resolution of the dispute other than mediation, any possible proposals for time



limits for conducting the mediation, the language or languages of mediation, the place of personal meetings and a nomination of the Mediator, if relevant.

2. If there exists a prior agreement of the Parties on application of the Mediation Rules for resolution of disputes of the Parties (a "**Mediation Clause**"), the Party or Parties that intend(s) to initiate mediation in accordance with the Mediation Rules shall enclose with the Call under the previous paragraph a copy of the Mediation Clause on the basis of which the Call is being filed.
3. Upon receipt of the Call and payment of the fee for processing the Call, the Arbitration Court shall send its copy to all other Parties together with an accompanying letter. Furthermore, the Arbitration Court shall provide reasonable co-operation in persuading the other Parties to initiate mediation under these Mediation Rules.
4. If the other Parties state within 15 days that they accept the Call, the Arbitration Court shall appoint the Mediator in accordance with Article 6. If the other Parties reject the Call or do not respond to the Call, it is deemed that they are not interested in mediation. The Arbitration Court shall inform the Party that sent the Call accordingly.
5. If the Call is accepted by only one or several, but not all, of the other Parties, or if the Call is accepted only partly in terms of the contents of the dispute, the Arbitration Court shall notify the Party that sent the Call accordingly and, if the latter agrees, it shall appoint the Mediator in accordance with Article 6.

Article 6 - Selection of Mediator

1. The Arbitration Court maintains a list of persons who, by virtue of their professional expertise and moral qualities, are able to conduct effective mediation (the "**List of Mediators of the Arbitration Court**").
2. Only a person who has the relevant training, qualifications and experience, whose workload does not prevent him/her from conducting effective mediation and who is capable of conducting mediation in conformity with these Mediation Rules may become a Mediator under these Mediation Rules. When assessing a particular person, the Arbitration Court shall also take into account the nationality, language and professional skills of the given person.
3. The Parties may jointly nominate a person to act as mediator. Such a person may, but need not be, included in the List of Mediators of the Arbitration Court. The nominated person must be appointed by the Arbitration Court as the Mediator. The Arbitration Court will refuse to appoint a person who does not meet the requirements set out in paragraph 2 of this Article. The Arbitration Court will not give reasons for possible refusal.
4. If the Parties do not jointly nominate the Mediator, the Arbitration Court will, after having consulted the Parties, appoint one of the persons entered in the List of Mediators of the Arbitration Court as the Mediator. When selecting the Mediator, the Arbitration Court will take into consideration the requirements and characteristics referred to in paragraph 2 of this Article.
5. Notwithstanding the method of selecting the Mediator, every person to be appointed as



mediator is obliged to sign a declaration that he/she accepts the position of Mediator, that he/she is available for the assignment, and that he/she is impartial and independent, and is further obliged to advise the Arbitration Court of any and all facts or circumstances that could cause doubts on the part of a reasonably acting third party as to his/her independence and impartiality. The IBA Guidelines on Conflicts of Interest in International Arbitration shall apply *mutatis mutandis*.

6. If all the Parties agree, they may propose that mediation be conducted by more than one Mediator. In that case, the provisions of this Article shall apply analogously.

Article 7 - Conduct of Mediation

1. If required by the applicable law, the Parties shall sign with the Mediator, without delay after his/her appointment, an agreement to mediate based on the model agreement attached to these Mediation Rules as their Annex II (the “**Agreement**”); these Mediation Rules will form an integral part of the Agreement. Mediation is initiated once the Agreement is signed. The Arbitration Court is not a party to the Agreement and bears no liability under the Agreement.
2. Unless the Parties agree otherwise and unless this is prohibited by the applicable law, mediation will be non-public and confidential, save for the information that mediation is being conducted, was conducted or will be conducted.
3. Unless the Parties agree otherwise, it is permissible for the Mediator to meet and confer with the Parties in separate sessions.
4. Immediately following his/her appointment, the Mediator shall discuss with the Parties the manner in which the mediation will be conducted. If all the Parties do not agree on the manner of conducting the mediation or on any question related to the conduct of the mediation, the Mediator shall make a decision on the given issue, after having consulted all the Parties, so as to fulfil the meaning of these Mediation Rules.
5. Unless the Parties agree otherwise, the Arbitration Court may decide on the place of personal meetings between the Mediator and the Parties, or invite the Mediator to decide on this place if the Mediator has already been appointed.
6. Unless the Parties agree otherwise, the Arbitration Court may decide on the language(s) in which the mediation will be conducted, or invite the Mediator to decide on the language if the Mediator has already been appointed.

Article 8 - Duties of the Mediator

1. The Mediator has the duty to be impartial and independent of the Parties.
2. The Mediator has the duty to conduct the mediation with the necessary professional care and, through his action, contribute to making it possible to resolve the dispute between the Parties quickly and efficiently. However, the Mediator is not responsible for the result of mediation and is not a party to the mediation settlement agreement; only the Parties are



responsible for such agreement.

3. The Mediator has the duty to maintain confidentiality of everything that (s)he learned within the mediation and preparation for the mediation unless all the Parties waive this duty.
4. The Mediator has the duty to maintain confidentiality of all facts and information that (s)he learnt in separate meetings unless the relevant Party waives this duty or explicitly, even if only orally, asks the Mediator to disclose the information to the other Parties.
5. As far as possible, the Mediator shall adhere to the requirements of the Parties and treat them fairly and impartially, both upon initiation of the mediation and during its course.
6. Unless required otherwise by the applicable law or unless all the Parties and the Mediator agree otherwise in writing, the Mediator may not testify as a witness in court, arbitration or similar proceedings with respect to anything related to the mediation conducted under these Mediation Rules.

Article 9 - Duties of the Parties

1. All the Parties have the duty to act in good faith during the mediation.
2. Unless all the Parties expressly agree otherwise, any and all settlement agreements between the Parties are confidential, except for cases where a Party may publish such agreements to the extent required by the applicable law or to the extent necessary for the performance or enforcement of the settlement agreement.
3. Unless required by the applicable law or unless an agreement between the parties provides otherwise, a Party may not use the following as evidence in any court, arbitration or similar proceedings:
 - a) documents, statements or communications that were provided by the other Party or the Mediator during the mediation or for its purposes unless the Party which intends to submit them in court, arbitration or similar proceedings could obtain them independent of the mediation;
 - b) the views expressed or proposals made by any of the Parties during mediation in connection with the dispute or its possible settlement;
 - c) any acknowledgement made by another Party within the mediation;
 - d) the views or proposals put forward by the Mediator in the mediation process; or
 - e) the fact that any the Parties indicated within the mediation that it was prepared to accept a proposal for a settlement agreement.

Article 10 - Med-arb and Arb-med

1. Unless all the Parties agree otherwise in writing, the Mediator may not act, and may not have acted in the past, as a judge, arbitrator, expert, legal counsel or adviser of the Parties in any court, arbitration or similar proceedings related to the dispute that is or has been the subject of mediation in accordance with these Mediation Rules.



2. The agreement referred to in the previous paragraph is deemed to exist if the Parties decide to use the model MED-ARB clause given in Annex III to these Mediation Rules.

Article 11 - Fees and Costs

1. The Parties submitting a Request shall pay, when submitting the Request, a non-refundable fee for its acceptance under Article 4 of the Mediation Rules, in the amount specified in the Tariff attached to these Mediation Rules. The Request will not be processed until the fee for its submission has been paid.
2. The Calling Parties shall pay, when submitting the Call, a non-refundable fee for its processing under Art. 5 (1) of the Mediation Rules, in the amount specified in the Tariff attached to these Mediation Rules. The Call will not be processed until the fee for its submission has been paid.
3. After acceptance of a Request by the Arbitration Court (Article 4) or after acceptance of a Call by the other Parties (Art. 5 (4)), the Arbitration Court will ask the Parties to pay one or several advance payments to cover the administrative costs of the Arbitration Court and the fees and costs of the Mediator as specified in the Tariff which forms an annex to these Mediation Rules.
4. The Arbitration Court may collect the Mediator's fee and compensation for his/her costs, also by means of advance payments.
5. In conformity with these Rules, the Arbitration Court may interrupt or discontinue the preparation for mediation, or the mediation itself, if any requested advance is not paid.
6. After the end of the mediation, the Arbitration Court will calculate the total costs of the mediation and, depending on the circumstances, either refund any overpayments to the Parties or bill to the Parties any outstanding amounts in conformity with the Mediation Rules.
7. Unless the Parties agree otherwise, they shall bear all the requested advance payments and billed costs of mediation in equal shares, and each of the Parties shall bear its own costs.
8. Any of the Parties may pay any outstanding balance of any advances and costs if the other Party fails to pay its share. The Arbitration Court will not discontinue the mediation under Art. 12 (e) before it provides the Parties with a reasonable opportunity to proceed under this paragraph.
9. If more than two Parties take part in mediation, the fee for accepting a request (Article 4) or the fee for processing a call (Art. 5 (4)), as appropriate, will be increased by 20% for each further Party, but by no more than 60%.
10. The fee for accepting a request and the fee for processing a call are non-refundable and will be used as an advance for payment of the administrative costs of the Arbitration Court.
11. If, before the initiation of mediation, an arbitration has been conducted under the Rules of the International Arbitration Court of the Czech Commodity Exchange between the same Parties regarding the same dispute, the Parties will not be required to pay a fee for accepting a request or a fee for processing a call.



Article 12 - Termination of Mediation

Mediation initiated under these Mediation Rules ends when the Arbitration Court confirms its end by means of a written notice sent to the Parties once the first of the following events occurs:

- a) signature of a mediated settlement agreement of the dispute by the Parties;
- b) a written notice sent by any of the Parties to the Mediator, if the latter has already been appointed, or to the Arbitration Court, if the Mediator has not yet been appointed, to the effect that the Party has decided not to continue in the mediation;
- c) a written notice from the Mediator to the Arbitration Court to the effect that the mediation ends; this notice may, but need not, be reasoned;
- d) expiry of the period specified for the mediation; or
- e) expiry of more than ten days from the due date of any payment that was to be made by one or more Parties under these Mediation Rules.

The Mediator shall inform the Arbitration Court without delay of execution of an agreement on amicable settlement of the dispute in mediation by the Parties.

Article 13 - Final Provisions

1. Unless all the Parties agree otherwise in writing or unless this is prohibited by the applicable law, the Parties may initiate or continue in any court, arbitration or similar proceedings in relation to the dispute, regardless of a mediation conducted under these Mediation Rules.
2. The Mediator, the Arbitration Court, the Czech Moravian Commodity Exchange Kladno, or their employees, are not liable to anyone for any acts or omissions in relation to the preparation or conduct of mediation under these Mediation Rules, other than in cases where the applicable law prohibits such a limitation of liability.
3. In all matters that are not expressly regulated in these Mediation Rules, the Arbitration Court and the Mediator shall act in the spirit and sense of these Mediation Rules.
4. These Mediation Rules are effective from 1 October 2018.



Annexes to the Mediation Rules

- I. Tariff
- II. Model Agreement to Mediate
- III. Model Mediation Clauses