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# MEDIATION RULES

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**CHAMBER OF MEDIATION, CONCILIATION AND  
ARBITRATION OF OCCITANIA**

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## PREAMBLE.

The modalities of mediation are governed by the present Rules, which are applicable to all proceedings initiated after October 1st, 2022.

The present Rules of mediation shall apply to all mediation taking place under the aegis of the Chamber of Mediation, Conciliation, and Arbitration of Occitania.

These Rules shall apply to mediators, parties, and their representatives.

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## ARTICLE 1. DEFINITIONS

In the Rules:

- (i) “administrative fees” refers to the sum to pay for a request for Mediation to be registered;
- (ii) “Chamber” refers to the Chamber of Mediation, Conciliation, and Arbitration of Occitania (CMCAO);
- (iii) “mediation fees” refers to administrative fees as well as the mediator’s fees;
- (iv) “mediator” refers to the person helping the parties solve a dispute;
- (v) “mediator’s fees” refers to the mediator’s remuneration. The Mediation Committee shall determine the advance on the mediator’s fees;
- (vi) “Mediation Committee” refers to the President of the Chamber, the Secretary, the Treasurer, and the Vice President in charge of the Rules
- (vii) “party” or “parties” refers to parties to the mediation;
- (viii) “request” refers to a request of mediation, based on, or in lack of, a mediation clause;
- (ix) “Rules” refers to the Chamber’s Rules of mediation;
- (x) “Secretariat” refers to the Chamber’s Secretariat, located at 10 boulevard d’Arcole – 31000 TOULOUSE.

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## ARTICLE 2. SCOPE OF MEDIATION

1. Mediation is a structured process wherein one or multiple parties to a dispute shall attempt to settle the dispute on their own, with the help of a mediator.
2. Within the framework of these Rules, mediation shall be independent of a possible resort to conciliation or arbitration. Nevertheless, mediation can be paired with an arbitration procedure, a conciliation procedure, or a judicial procedure.

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## ARTICLE 3. THE REFERRAL TO THE CHAMBER

1. Every mediation whose organisation is submitted to the Chamber shall entail the application of these Rules.
2. Parties to the mediation shall act in good faith.
3. Parties may be assisted by representatives.

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## ARTICLE 4. JUDICIAL MEDIATION

1. In the case of judicial mediation, the Chamber shall be nominated by the judge. This nomination shall be registered by the Secretariat upon its receipt.
2. Pursuant to article 131-4 of the French Code of Civil Procedure, the legal representative of the Chamber shall submit, for approval of the judge, the name of the person(s) who will ensure the execution of the judicial mediation within the Chamber and on its behalf.

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## ARTICLE 5. REQUEST FOR MEDIATION PURSUANT TO A MEDIATION CLAUSE

When parties have agreed to submit their dispute to the present Rules, any party wishing to initiate mediation shall file a written request for mediation to the Chamber. A copy of the request shall be addressed to the other parties.

2. The request for mediation form is attached in Appendix 2.
3. Requests for mediation shall be addressed to the Chamber via registered mail, return receipt requested, at the Secretariat: 10 Boulevard d'Arcole – 31 000 TOULOUSE.
4. For the request to be registered, the party filing it shall pay the registration fees. A table to calculate the amount to pay is available in Appendix 1 of the Rules.

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## ARTICLE 6. REQUEST FOR MEDIATION NOT PURSUANT TO A MEDIATION CLAUSE

1. In the absence of an agreement between the parties to submit their dispute to these Rules, any party wishing to file for one shall send a written request to the Chamber.
2. Request form is attached in Appendix 3.
3. Upon receipt of the request, the Secretariat shall notify the request to the other parties.
4. Paragraphs 3 and 4 of this Article apply *mutatis mutandis*.

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## ARTICLE 7. ANSWER TO THE REQUEST PURSUANT TO A MEDIATION CLAUSE

1. The Secretariat, receiving a request from a party that invokes the existence of a mediation clause stipulated in the contract that is the subject of the dispute, shall notify the implementation of mediation to the other party. The Secretariat shall also send him these Rules.
2. The other party shall have 15 days to share his observations.
3. Upon receipt of the observations from the other party, or upon expiration of its deadline, the Secretariat shall refer to the Mediation Committee to appoint a mediator.

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#### **ARTICLE 8. ANSWER TO THE REQUEST FOR MEDIATION NOT PURSUANT TO A MEDIATION CLAUSE**

1. The Secretariat, when receiving a request from a party not pursuant to a mediation clause as well as the payment of the registration fees, shall propose to the other party to implement mediation. The Secretariat shall also send him these Rules.
2. The other party shall have 15 days to answer the request for mediation.
3. When the other party agrees to mediation, the Secretariat shall refer to the Mediation Committee for the nomination of the mediator.
4. When the other party does not agree to mediation, the Chamber shall inform the party who submitted the request and shall close the file. Registration of the request remains.
5. Lack of answer from the other party within the period provided for in paragraph 2 of the present Article shall amount to a refusal.

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#### **ARTICLE 9. INDEPENDENCE AND IMPARTIALITY OF THE MEDIATOR**



1. The mediator is a third-party, neutral and impartial, who shall help parties settle their dispute.
2. Before his application or nomination, the mediator shall complete a declaration of independence and impartiality.
3. In his declaration, the mediator shall disclose all the facts or circumstances that could affect objective or subjective independence and impartiality.
4. The Mediation Committee shall notify the parties of all the disclosed circumstances and set a deadline for the parties' eventual observations.
5. When, during mediation, the mediator notes the existence of an element likely to question his independence or impartiality, he shall inform the parties. The continuation of his mission is then subject to a written agreement of the parties. Without the parties' agreement, mediation shall be suspended and the Mediation Committee shall nominate a new mediator.

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## **ARTICLE 10. NOMINATION OF THE MEDIATOR**

1. Parties may conjointly appoint a mediator for confirmation by the Mediation Committee.
2. Otherwise, the Mediation Committee, after consulting with the parties, shall appoint a mediator.
3. The Mediation Committee shall nominate the mediator upon reception of his declaration of independence and impartiality.



4. In the case of judicial mediation, the mediator may already be appointed in the judicial decision.
5. After his nomination, the mediator shall receive the mediation file.
6. The mediator shall have full freedom to conduct the mediation process, in agreement with the parties.
7. Parties may agree to nominate multiple mediators, or may ask the Mediation Committee to name multiple. In the event that the parties have not considered it, the Mediation Committee may suggest the parties nominate multiple mediators.

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## **ARTICLE 11. PROCEDURE**

1. The parties and the mediator shall promptly decide on how the mediation shall be conducted.
2. Following this discussion, the mediator shall communicate a written note on the course of the mediation to the parties.
3. During the entire proceedings, the mediator shall consider the parties fairly and impartially.
4. During the entire proceedings, the parties shall act in good faith.

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## **ARTICLE 12. PLACE AND LANGUAGE OF MEDIATION**

1. Unless parties have agreed otherwise, the Mediation Committee shall decide on the place of all meetings, or may invite the mediator to do so.



2. Unless parties have agreed otherwise, the Mediation Committee shall determine the language of mediation or may invite the mediator to do so.

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## ARTICLE 13. DEADLINES AND TERMINATION OF MEDIATION

1. The deadline for mediation shall be of 3 months, starting from the first meeting of mediation.
2. If justified, this deadline may be renewable, at the parties' request, unless opposed by the mediator.
3. Mediation shall end after one of the following events has occurred:
  - (i) the signing by the parties of a settlement agreement; or
  - (ii) a discontinuance of suit and action; or
  - (iii) the notification, from one of the parties, of the decision to no longer pursue mediation; or
  - (iv) the notification, from the mediator, that in his opinion, the mediation will not settle the dispute between the parties or that the necessary conditions to the mediation have not been met; or
  - (v) expiration of the time limit set.
4. The mediator shall note the end of mediation in writing and shall indicate the outcome, whether there is a partial agreement, a total agreement, or no agreement whatsoever. The mediator shall notify his findings to the Secretariat, the parties, and, if applicable, their representatives. In the case of a judicial mediation, the mediator shall also notify his findings to the judge.

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## ARTICLE 14. PARTIES' AGREEMENT

1. Because he is not part of the agreement, the mediator shall not sign it.
2. Parties shall foresee the confidentiality they intend to give to their agreement, in particular for the purposes of application and execution.
3. Parties shall perform their agreement in good faith.

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## ARTICLE 15. CONFIDENTIALITY

1. Unless a convention states otherwise, and unless prohibited by applicable law:
  - (i) mediation shall be private and confidential;
  - (ii) any agreement between the parties setting the dispute shall be confidential, except if disclosure by a party is required by applicable law.
2. Subject to legal provisions and unless parties have agreed otherwise, no one shall provide as proof in any judicial, arbitral or conciliation procedure:
  - (i) documents, declarations or communications submitted by another party or by the mediator during or at the end of the proceedings;
  - (ii) expressed opinions or suggestions made by one of the parties or the mediator during the proceedings;
  - (iii) confessions made by one of the parties during the proceedings.
3. Any participant to mediation, whether directly or indirectly, in any capacity whatsoever, shall be subject to this duty of confidentiality.

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## ARTICLE 16. MEDIATION FEES AND MEDIATOR'S FEES

1. Mediation fees include administrative fees and the mediator's fees.



2. Administrative fees are collected by the Chamber to organise mediation. Administrative fees shall be paid when requesting mediation, for the request to be registered.
3. Mediator's fees are mediators' remuneration. The Mediation Committee shall determine the advance on fees, which shall be paid once the parties have agreed to start mediation proceedings.
4. Unless the parties agreed otherwise, mediation fees shall be paid in an equal manner between the parties.
5. Mediation fees are available in Appendix 1 of the Rules.

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## **ARTICLE 17. APPLICATION AND INTERPRETATION OF THE RULES**

1. Mediation shall be conducted in accordance with these Rules.
2. The Mediation Committee has exclusive jurisdiction to interpret these Rules.
3. In the event of contradictions between the different language versions of these Rules, the French version shall prevail over the translated versions.

## APPENDIX 1. SCHEDULE OF COSTS

### FEES

<b>TIME</b>	<b>MEDIATOR'S FEES (euros/hour)</b>
up to 25 hours	<b>120</b>
above 25 hours	<b>150</b>

### ADMINISTRATIVE COSTS

<b>AMOUNT OF THE DISPUTE (euros)</b>	<b>ADMINISTRATIVE COSTS (euros)</b>
up to 5000	<b>150</b>
from 5 001 to 10 000	<b>250</b>
above 10 001	<b>500</b>

## APPENDIX 2. MEDIATION CLAUSE

It is recommended that parties wishing to make reference to the Chamber's mediation in their contracts use the standard clause below:

- 1. All disputes arising out of or in connection with the present contract, in particular, any question relating to its existence, negotiation, validity or termination of this contract, shall be finally settled through mediation, under the Rules of mediation of the Chamber of Mediation, Conciliation, and Arbitration of Occitanie (CMCAO) in its [date of Rules] version.*
- 2. The legal place of mediation shall be at the Secretariat of the Chamber, at 10 Boulevard d'Arcole – 31000 TOULOUSE.*
- 3. The language to be used in the mediation proceedings shall be French.*

Parties are free to adapt the clause according to the dispute's circumstances. They shall freely decide on the place and language of mediation.

## REQUEST OF MEDIATION - C.M.C.A.O.

### PART 1. INFORMATION ON THE PARTY FILING THE REQUEST

**Surname:**

**Name(s):**

**Address(es):**

**Phone(s):**

**Email(s):**

**Representative(s):**

### PART 2. INFORMATION ON THE OTHER PARTY

**Surname:**

**Name(s):**

**Address(es):**

**Phone(s):**

**Email(s):**

**Representative(s):**

**PART 3. INFORMATION ON THE DISPUTE**

**Description of the dispute and its estimated value:**

A large, solid green rectangular area intended for the user to provide a detailed description of the dispute and its estimated value.

**Joint appointment of a mediator or agreement of the parties on the qualities of the mediator to be appointed by the Mediation Committee:**

A large, solid green rectangular area intended for the user to provide information regarding the joint appointment of a mediator or an agreement on the qualities of the mediator to be appointed by the Mediation Committee.

## **PART 4. AGREEMENT(S) OF THE PARTIES**

The party filing the request shall attach a copy of any written agreement pursuant to the request, except when there is no prior agreement to use the Mediation Rules.

The party filing the request shall also join, if applicable, any agreement regarding the language and place of mediation.

For the request to be registered, it shall be accompanied by the payment of the administrative fees, the amount of which is indicated in the Appendix to the Mediation Rules.

**Done in:**

**on:**

**Signature(s):**