

Business Mediation Rules - 2018

Effective May 07, 2018

I – INITIAL PROVISIONS

1.1 CAMARB – BUSINESS MEDIATION AND ARBITRATION CHAMBER – BRAZIL, hereinafter referred to as CAMARB, has as its objective the administration of arbitration procedures and other extrajudicial forms of dispute resolution.

1.2 The mediation procedure is voluntary and based on the good faith and will of the parties.

1.3 The CAMARB Mediation Rules, now referred to as the “Rules”, will apply whenever so agreed between the parties, regardless of the existence of a mediation or staggered clause that stipulates the adoption of the mediation rules of CAMARB or the Minas Gerais Arbitration Chamber, the previous name of CAMARB.

1.4 Unless otherwise provided, the Rules in force on the date of the Mediation Request will apply.

II – OF MEDIATORS

2.1 Both members of the CAMARB Mediators List and others who are not part of it may be appointed as mediators, as long as they are capable individuals who are trusted by the parties.

2.2 The person(s) appointed to act as mediator(s) will sign a document informing any circumstance that may give rise to justifiable doubts regarding their impartiality and independence, in relation to the parties or the dispute subject to mediation, as well as the necessary availability to conduct the mediation within the stipulated period.

2.2.1 If, during the course of mediation, the mediator becomes aware of the existence of a fact or circumstance that may affect their impartiality or independence, they must inform the parties and CAMARB of the need for their withdrawal.

III – REQUEST FOR MEDIATION

3.1 Anyone wishing to resolve disputes through mediation, under the administration of CAMARB, must communicate their intention to the Secretariat of that entity, indicating:

I – name, physical and electronic address and full qualifications of the parties involved and their lawyer(s), if any;

II – full copy of the instrument containing the mediation or staggered clause, if any;

III – brief summary of the subject of the dispute;

IV – estimated value of the dispute

3.2 All documents submitted by the parties must be delivered to the CAMARB Secretariat in a sufficient number of copies to be forwarded to the mediator(s), with no documents remaining in

the custody of CAMARB, except for a copy of the Mediation Request and a copy of the Mediation Contract.

3.3 Communications from the CAMARB Secretariat and the mediator(s) and copies of the parties' statements will be sent to the party or, if there is an attorney appointed by the party, exclusively to the latter, by letter, email or any other form of written communication sent to the address provided by the party(ies) to the Secretariat.

3.4 When requesting the institution of the mediation procedure, the applicant must make a non-refundable deposit of their share of the Administration Fee.

3.5 If the requirements of items 3.1 and 3.4 are not met, the Secretariat will establish a deadline for compliance. If the requirements are not met within the deadline granted, the Mediation Request will be archived, without prejudice to the possibility of a new request.

3.6 The CAMARB Secretariat will send the Mediation Request to the respondent, at the address provided by the claimant, as well as a copy of these Rules and the list of names that make up its List of Mediators so that, within 15 (fifteen) days from its receipt, it can express its opinion on the request, as well as make the non-refundable deposit of the portion of the administration fee that it is entitled to.

3.7 If the respondent is not found, the claimant will be immediately informed and must provide a new address to the CAMARB Secretariat within 10 (ten) days, under penalty of the mediation request being archived, without prejudice to the possibility of a new request.

3.8 If the opposing party refuses to participate in the mediation, the CAMARB Secretariat will communicate this fact in writing to the requesting party.

IV – PRE-MEDIATION

4.1 If both parties have preliminarily agreed to participate in the mediation procedure, if there is interest, they may be invited to appear at the CAMARB headquarters, on a date, time and place previously scheduled by the CAMARB Secretariat for the pre-mediation interview to be held.

4.2 The pre-mediation interview may, at the discretion of the parties or at the suggestion of the CAMARB Secretariat, be conducted by telephone conference.

4.3 The pre-mediation interview will be conducted by the CAMARB Secretariat with each party, separately, unless the parties have previously agreed to conduct it jointly.

V – APPOINTMENT OF MEDIATORS

5.1 The CAMARB Secretariat will request the parties to appoint, by mutual agreement, within 10 (ten) days from receipt of the communication, mediator(s) to act in the mediation procedure.

5.2 If it is necessary for the mediator(s) to be nominated by the CAMARB Board of Directors, the CAMARB Secretariat will forward to the parties a list of mediators with a minimum of three nominations, including their respective resumes, requesting that the parties indicate their order of

preference in relation to the nominated mediators, numbering them from 1 (one) to 3 (three), within 5 (five) days.

5.3 The mediation will be conducted by the mediator(s) jointly appointed by the parties.

5.4 If there is no coincidence of nomination, the CAMARB Secretariat may repeat the procedure provided for in item 5.2, if the parties are interested, forwarding a new suggested list.

5.5 If any appointed mediator dies, is declared impeded or suspect or becomes unable to perform the function, and the parties agree to continue the mediation, they must jointly appoint another mediator within 10 (ten) days, otherwise, the CAMARB Secretariat may repeat the procedure provided for in item 5.2, forwarding a new suggested list.

VI – OF THE MEDIATION CONTRACT

6.1 After the appointment of the mediator(s), the CAMARB Secretariat will prepare the draft of the Mediation Contract, which will contain:

I – name, profession, marital status and address of the parties and their lawyers, if any;

II – name, profession and address of the appointed mediator(s);

III – the matter that will be the object of mediation;

IV – the language in which the mediation procedure will be conducted;

V – the designation of the place, date and time of the mediation sessions;

VI – the confidentiality clause and its scope;

VII – the duration of the mediation;

VIII – the provision that the mediator may not act as an arbitrator or witness in judicial or arbitration proceedings that are related to the subject of the conflict brought to mediation;

IX – determination of the form of payment of the mediator(s) fees and the administration fee, as well as the declaration of responsibility for the respective payment and for the mediation expenses;

X – signature of the parties, the mediator(s) and a member of the CAMARB Secretariat.

6.2 Mediation will be considered to have begun on the date for which the first mediation session is scheduled, as provided for in article 17 of Law No. 13.140/15.

6.2.1 On the date of the first mediation session, the Mediation Contract must already be signed by all parties and the mediator(s), and the mediator(s)' fees must already have been deposited, in accordance with these Rules.

6.2.2 Once mediation has begun, subsequent sessions with the presence of the parties may only be scheduled with their consent, as provided for in article 18 of Law No. 13.140/15.

6.2.3 While the mediation procedure is ongoing, the statute of limitations period will be suspended, as provided for in the sole paragraph of article 17 of Law No. 13.140/15.

VII – OF THE PROCEDURE

7.1 The steps and rules of the mediation procedure will be defined by the mediator(s) themselves and clarified by them at the beginning of the first mediation session.

7.2 Mediation sessions may be held together or separately, depending on the mediator's understanding.

7.3 If deemed necessary, the mediator may request that the parties present, in writing, in a succinct manner, within a period of up to 10 (ten) days before the date set for the first session, a Mediation Plan, describing, among other items, the objectives of the mediation, analysis of their interests, needs and possible risks of the dispute, as well as any documents they consider important for correctly informing the mediator about the issue in dispute.

7.4 If the parties expressly state this, the mediator must consider all information and documents presented during the mediation as confidential.

7.5 In order to ensure the effectiveness of the procedure, at the request of the mediator(s), the parties must prove that the people present at the mediation sessions have the power to represent them and make the necessary decisions for the effective resolution of the conflict, including signing an agreement.

7.6 The mediator may limit the number of people representing each of the parties in order to provide a conducive environment to the smooth running of the procedure.

7.7 The mediation procedure will be considered concluded: (i) upon reaching an agreement between the parties, (ii) in the event of a declaration by either party of lack of interest or impossibility of reaching an agreement, or (iii) by decision of the mediator(s), when they consider that further efforts to reach consensus are not justified.

7.7.1 In the cases provided for in item 7.7, the parties or the mediator(s), as the case may be, must inform the CAMARB Secretariat of their decision, without it being necessary to state their reasons.

7.8 Once the mediation procedure is concluded, all documents submitted by the parties or produced during the mediation will be made available to the party that submitted them for a period of 30 (thirty) days. After this period, CAMARB is expressly authorized to destroy all documentation.

7.8.1 The mediator shall destroy all notes and other documents received or produced by them during the mediation.

7.9 The presence of a lawyer representing the party in mediation is optional. When present, the lawyer must sign the confidentiality agreement.

7.9.1 If only one of the parties appears accompanied by a lawyer, the mediator will suspend the procedure until all parties are duly assisted.

7.10 If it is not possible to reduce the final agreement to writing, a document will be drawn up before the end of the mediation session, which will contain the general guidelines relating to the points to be addressed in the preparation of said final agreement.

7.10.1 The confidentiality of mediation does not apply to this document, which can be used to prove the terms of what was agreed, whether in ordinary court or in arbitration.

VIII – OF THE ADMINISTRATION FEE, MEDIATOR FEES AND THE OTHER EXPENSES

8.1 The expenses inherent to the mediation procedures administered by CAMARB will be determined in accordance with the Expenses Table that is in force at the time of the Mediation Request and include the Administration Fee, the Mediator's Fees and other expenses referred to therein.

8.2 If, during the course of the mediation, it is found that the economic value of the dispute, reported by the parties, is lower than the real economic value determined based on the elements produced during the procedure, the CAMARB Secretariat or the mediator will proceed with the respective correction, and the parties must, if applicable, supplement the amount initially deposited as the Administration Fee and Mediator's Fees, within 15 (fifteen) days, counting from the receipt of the summons sent to them.

8.3 In the event of non-payment by either party of the Administration Fee and/or Mediator Fees within the time and amounts stipulated in the Table of Expenses, the other party may collect the respective amount on behalf of the defaulting party in order to allow the mediation to take place. If the Administration Fee and/or fees are not paid in full within 15 (fifteen) days, the mediation will be suspended and may be resumed after the aforementioned payment has been made.

8.4 After 30 (thirty) days of suspension due to non-payment, the defaulting party will be notified to make payment within 10 (ten) days, after which the mediation will be considered terminated. The amounts related to the Administration Fee and Mediator Fees paid up to that point will be reverted in favor of CAMARB and the mediator(s), respectively.

8.5 Expenses incurred for the performance of acts in the mediation procedure shall be borne by the party requesting the respective measure or by both parties if the measure is initiated by the mediator(s) or is provided for in these Rules. The CAMARB Secretariat may request from the parties an advance of a sufficient amount to cover the expected expenses for the mediation, in an amount to be stipulated according to the specific case, an amount that shall be subject to the rendering of accounts.

8.6 At the end of the mediation procedure, CAMARB will be responsible for assessing the amounts paid by the parties in order to determine whether additional payments will be necessary, whether as Mediator Fees, as a supplement to the Administration Fee or, eventually, reimbursement of expenses, which must be duly proven by CAMARB or by the mediator(s), as

the case may be. If, however, there is a remaining balance in favor of the parties, this will be reimbursed to them.

IX – FINAL PROVISIONS

9.1 In the event that arbitration proceedings are initiated after mediation has taken place, anyone who has participated as a mediator in the same dispute may not act as an arbitrator.

9.2 The mediator(s) are prevented from acting as a witness in any legal or arbitration proceedings that may be instituted to resolve the same conflict.

9.3 The mediation procedure will be strictly confidential, and CAMARB, the mediator(s), the parties themselves and all other participants are prohibited from disclosing any information to which they have access as a result of their duties or participation in the mediation procedure without the express consent of all parties, except in cases where there is a legal obligation to disclose.

9.4 The confidentiality of mediation encompasses all information, documents and data presented by the parties, the mediator(s) and others involved in the mediation procedure, from the submission of the Mediation Request by the interested party until the end of the procedure, whether or not there has been an agreement between the parties, except only: (i) information and documents expressly identified as non-confidential; (ii) documents and information of public knowledge; (iii) documents and information that were already known to all parties involved, and were not protected by a confidentiality obligation agreed upon in a separate clause, term or contract.

9.5 Unless otherwise stipulated, the place of mediation will be the CAMARB headquarters.

9.6 In the absence of agreement between the parties, the mediator(s) shall determine the language or languages of the mediation proceedings, taking into account all relevant circumstances, including the language of the contract, if any.

9.7 The eventual initiation of judicial or arbitration proceedings will not prevent the continuation of the mediation procedure, nor its commencement, if this is in the interests of the parties.

9.8 It will be up to the mediator(s) to interpret and apply these Rules in everything that concerns their competence, duties and prerogatives.

9.9 Any omissions will be resolved by the mediator(s) or by the CAMARB Board of Directors, if the former has not yet been appointed.

9.10 The CAMARB Board of Directors will be responsible for defining the Expenses Table and the List of Mediators.

9.11 The Expense Table and List in force at the time of the Mediation Request apply.

9.12 These Rules come into force on May 7, 2018 and may only be changed by resolution of the CAMARB Board of Directors.